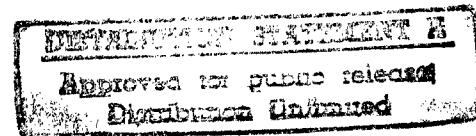


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# ***JPRS Report— Supplement***



# **East Europe**

## ***Recent Legislation***

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# East Europe

## Recent Legislation

JPRS-EER-92-012-S

### CONTENTS

30 January 1992

#### CZECHOSLOVAKIA

Law on Small Businesses	<i>[VEREJNOST 30 Oct, 6, 13 Nov]</i>	1
-------------------------	--------------------------------------	---

#### HUNGARY

Amendments to Law on Administration of Courts	<i>[MAGYAR KOZLONY 29 Nov]</i>	19
Constitutional Court Decision on Judiciary	<i>[MAGYAR KOZLONY 31 Oct]</i>	20
Resolution on Guidelines for Social Security	<i>[MAGYAR KOZLONY 19 Oct]</i>	20
Law on State Preferences Deemed Unconstitutional	<i>[MAGYAR KOZLONY 19 Nov]</i>	23
Constitutional Rights of Military Personnel	<i>[MAGYAR KOZLONY 19 Oct]</i>	24
Law on 1992 State Budget	<i>[UJ MAGYARORSZAG 2, 3, 4, 6, 7 Jan]</i>	24
Law on 1996 EXPO	<i>[MAGYAR KOZLONY 18 Dec]</i>	45

#### POLAND

Law on Employment, Unemployment	<i>[RZECZPOSPOLITA 25 Nov]</i>	49
Executive Order Governing Securities Prospectus	<i>[DZIENNIK USTAW 12 Aug]</i>	63
Law on Public Trading of Securities, Mutual Funds	<i>[DZIENNIK USTAW 25 Apr]</i>	76

#### ROMANIA

Law on Local Elections	<i>[MONITORUL OFICIAL 28 Nov]</i>	90
Law on Accounting System	<i>[MONITORUL OFICIAL 27 Dec]</i>	103

## Law on Small Businesses

92CH0164A Bratislava VEREJNOST (supplement)  
in Slovak 30 Oct, 6, 13 Nov 91

[Text of small business law, dated 2 October 1991, as published in EKONOMICKE LISTY: "Law on the Pursuit of Trade Activities (Small Business Law)"]

[30 Oct p 2]

[Text] The Federal Assembly of the Czech and Slovak Federal Republic has passed the following law:

### PART ONE. GENERAL PROVISIONS

#### Chapter I. Object of Regulation

##### Section 1

This law regulates the conditions for pursuing a trade, as well as regulating adherence to such conditions.

##### Definition of a Trade

##### Section 2

Pursuit of a trade is defined as consistent activity, carried out independently, in one's own name, at one's own responsibility, for the purpose of achieving a profit and under conditions which are set forth in this law.

##### Section 3

(1) The following activities are not considered as being performed in pursuit of a trade:

- a) Activities which are reserved by law for the state or a legal entity on the basis of special legal regulations;<sup>1</sup>
- b) Utilization of the results of such mental creative activities, the originators of which are protected by special laws,<sup>2</sup> including issuing, reproducing, and disseminating literary and other works through one's publishing activities;
- c) Activities performed in pursuit of the following professions:
  1. Physicians, pharmacists, psychotherapists and natural healers, health professionals, including sellers and processors of medicinal herbs, with the exception of optometrists, prostheticists, and pedicurists;
  2. Doctors of veterinary medicine, veterinary employees, and individuals engaged in specialized work, involving breeding and selection activities and the breeding of domestic animals;<sup>3</sup>
  3. Lawyers,<sup>4</sup> commercial attorneys,<sup>5</sup> and patent representatives;<sup>6</sup>
  4. Expert witnesses and interpreters;<sup>7</sup>
  5. Auditors<sup>8</sup> and tax advisers;

- 6. Stock exchange brokers;
- 7. Facilitators and arbiters of collective disputes;<sup>9</sup>
- 8. Responsible geodesists;<sup>10</sup>
- 9. Organizers of theatrical, film, and other audio-visual performances, concerts, musical, and dance performances, exhibitions and creative works of art, serviceable art and works based on popular creativity, festivals and reviews in the area of the arts and of culture;<sup>11</sup>
- 10. Restaurant operators and conservators of cultural monuments and collections which qualify as creative works by painters, sculptors and/or which qualify as serviceable art.

(2) The following activities are also not considered to be performed in pursuit of a trade:

- a) The activities of banks and other authorized individuals engaged in banking activities, the activities of savings institutions,<sup>12</sup> insurance institutions,<sup>13</sup> stock exchanges, and the establishment and administration of collective property participation;<sup>14</sup>
- b) The organizing of lotteries and other similar games;<sup>15</sup>
- c) Mining activities and activities carried out by mining methods;<sup>16</sup>
- d) The production and distribution of electric energy, gas, and heat, with the exception of small electric power plants;<sup>17</sup>
- e) Agriculture and forestry, including the sale of unprocessed agricultural and forestry products for purposes of processing or subsequent sale;
- f) Maritime transportation and maritime fishery;<sup>18</sup>
- g) The operation of nationwide railroads and related activities engaged in by the operator;<sup>19</sup>
- h) The establishment and operation of a unified telecommunications network, including the provision of services by this network;<sup>20</sup>
- i) Mass production of medications suitable for human and veterinary consumption;<sup>21</sup>
- j) The production, importation, exportation, and sale of psychotropic and narcotic substances;<sup>22</sup>
- k) Radio and television broadcasting;
- l) Testing activities.<sup>23</sup>

(3) The following are likewise not considered activities in pursuit of a trade: the sale of unprocessed or processed plants and livestock products based on small-scale selection and breeding activities engaged in by individuals and the sale of forestry products to direct consumers.

**Section 4****Activities Connected With the Rental of Real Estate**

(1) The rental of real estate, be it residential or nonresidential in character, is considered to be a trade to the extent that, in addition to the renting activity, other than basic services connected with the rental are provided.

(2) The operation of garages or parking lots for motor vehicles is a trade, provided conditions outlined in Paragraph 1 above are fulfilled or where these facilities serve as garages or parking lots for at least five vehicles belonging to persons other than the owner or the renter of the real estate involved.

**Chapter II. Conduct of Small Business****Section 5****Entities Authorized To Engage in Small Business Activities**

(1) Small business activities may be engaged in by a physical or legal entity, as long as they fulfill the conditions stipulated in this law (hereinafter referred to as the "entrepreneur"); state permission for engaging in small business activities (hereinafter referred to as "concessions") is required only in cases specifically identified in this law.

(2) Judges and prosecutors, employees of the state administration and of the territorial administration engaged in functions outlined in the law, members of the security forces and members of the armed forces may engage in small business activities as long as this is not proscribed or restricted by laws regulating their legal employment relationships or their service conditions.<sup>24</sup>

(3) Physical entities engaged in performing the functions of manager in state enterprises, state organizations, or joint stock corporations in which the state owns the decisive number of shares may not engage in small business activities in areas in which the entrepreneur is their employer. Appropriate conditions are stipulated in a special law.

(4) A physical entity or a legal entity or any other corporation with a domicile outside of the territory of the Czech and Slovak Federal Republic (hereinafter referred to as a "foreign individual") may engage in small business activities on the territory of the Czech and Slovak Federal Republic under equal conditions and to an equal extent as a Czechoslovak individual, as long as another law does not stipulate otherwise. However, such an individual must designate a responsible representative.

(5) Physical entities who have been granted refugee status in accordance with special regulations<sup>25</sup> may engage in small business activities under identical conditions as those applicable to foreigners who have a permanent residence on the territory of the Czech and Slovak Federal Republic.

**Section 6****General Conditions for Engaging in Small Business Activities**

(1) The following are the general conditions under which physical entities may engage in small business activities:

- a) Attainment of age 18;
- b) Competency to undertake legal actions;
- c) A clean record,

as long as this law does not stipulate otherwise.

(2) An individual who has been legally sentenced for the following offenses is not considered to have a clean record for purposes of this law:

- a) A criminal act, the substance of which is connected with the objective of the entrepreneurial activity;
- b) Any other criminal act deliberately performed, where, in view of the nature of the business activity and the persona of the entrepreneur, the fear exists that he may commit a similar or equal criminal act in engaging in small business activities.

(3) In the case of a legal entity, the general conditions as outlined in Paragraph 1 above must be fulfilled by the responsible representative.

**Section 7****Special Conditions for Engaging in Small Business Activities**

(1) Special conditions for engaging in small business activities are specialized in nature or constitute another measure of suitability, to the extent to which this law or special regulations so require.

(2) In the case of a legal entity, the special conditions must be fulfilled by the responsible representative.

**Section 8****Obstacles to Engaging in Small Business Activities**

(1) A physical or legal entity may not engage in small business activities involving property which has been declared bankrupt or regarding which bankruptcy has been terminated, for a period of three years following the termination of bankruptcy proceedings or until after forced settlement has been confirmed.<sup>26</sup>

(2) The provisions of Paragraph 1 above also apply to physical or legal entities against whom bankruptcy proceedings have been proposed during the critical period, but were rejected for lack of property adequate to at least compensate for the costs of the proceedings.<sup>27</sup>

(3) The obstacles outlined in Paragraphs 1 and 2 above shall be ignored if bankruptcy has occurred or forced settlement has been imposed as a result of the bankruptcy or criminal act committed by a third person.

(4) The organization designated by national council law (hereinafter referred to as the "small business office") may vitiate the obstacle identified in Paragraphs 1 and 2, provided the economic conditions of the person involved and his conduct indicate that in engaging in small business activities he will properly fulfill his obligations. Prior to making that decision, the small business office shall seek an expression of opinion from the appropriate economic chamber, provided one has been established.

(5) A physical entity which has been prohibited by the courts or by an administrative organ<sup>28</sup> from engaging in activities connected with the pursuit of a trade may not engage in small business activities as long as the prohibition is in effect.

### Section 9

#### Classification of Small Businesses

There are:

- a) Reporting businesses, which may be conducted on the basis of reports while fulfilling the stipulated conditions;
- b) Concession businesses, which may be conducted on the basis of concessions.

### Section 10

#### Small Business Licenses

(1) An authorization to engage in small business activities (hereinafter referred to as "small business authorization") accrues to legal entities as soon as they are registered in the Commercial Register and to legal entities who are not registered in the Commercial Register and to physical entities under the following conditions:

- a) With respect to declared small business activities, effective on the day of declaration, or, in the event the declaration identifies a subsequent day for the inception of small business activities, on that day;
- b) In the case of concession businesses, effective on the day the concession statement is received.

(2) The following is proof of the authorization to engage in small business activities:

- a) A small business license certifying that the conditions stipulated in this law and applicable to the conduct of the reported small business activities have been fulfilled; until the time such a license is issued, a copy of the declaration, accompanied by proof of delivery;
- b) A concession contract, used to grant the concession.

The entrepreneur shall use these documents as proof of identity.

(3) Foreign individuals, who register in the Commercial Register, shall be issued a small business license upon fulfilling the stipulated conditions or shall receive a concession license prior to registering.

(4) At the request of the founders or of organizations or individuals authorized to propose that a Czechoslovak legal entity be recorded in the Commercial Register, the small business office shall issue a small business license or a concession license prior to this registration, provided that proof has been presented that the legal entity has been established.

(5) Authorization to engage in small business activities accrues to individuals listed in Paragraphs 3 and 4 above effective on the day they register in the Commercial Register. If they do not submit a proposal to register within 90 days of receiving the small business license or the concession license, or if the proposal is not agreed to, they must immediately return the above documents.

(6) Authorization to engage in small business activities cannot be transferred to another individual. Another person may conduct such activities, as stipulated in this law.

(7) Small business activities may be conducted on the entire territory of the Czech and Slovak Federal Republic.

#### Engaging in Small Business Activities Through a Responsible Representative

### Section 11

(1) A responsible representative is a physical person selected by the entrepreneur who is responsible for managing the technical side of the business and also for adherence to small business regulations.

(2) A responsible representative must fulfill both the general and special conditions involved in engaging in small business activities (Sections 6 and 7).

(3) A responsible representative must be domiciled on the territory of the Czech and Slovak Federal Republic and must participate in the activities to a requisite extent; no one can act as a responsible representative for more than two entrepreneurs.

(4) In the event the entrepreneur is a legal entity, he is always obligated to appoint a responsible representative.

(5) A responsible representative for a legal entity may not be a member of the administrative council or another controlling organ of that legal entity.

(6) In the event the entrepreneur is a physical person, he may appoint a responsible representative through whom the small business activities will be carried out. If the entrepreneur fails to fulfill the specialized conditions for engaging in small business activities (Section 7) or if he does not have a domicile on the territory of the Czech and Slovak Federal Republic, he is obligated to appoint a responsible representative.

(7) The entrepreneur shall immediately report to the small business office the appointment of a responsible

representative for a reporting type of small business, as well as the termination of the functions of that representative.

(8) The appointment of a responsible representative for a concession-type small business shall be submitted by the entrepreneur for approval to the small business office. The appointment becomes effective on the day on which the approved decision is delivered. Termination of the activities of a responsible representative shall be reported by the entrepreneur immediately to the small business office which granted the concession.

(9) As the responsible representative ceases to carry out his function, the entrepreneur must immediately appoint a new responsible representative.

(10) The small business office may permit the conduct of small business activities for a temporary period without a responsible representative, as long as this does not constitute a threat to the life and health of people.

(11) The provisions of Paragraph 9 above are not invoked in the event the small business activities are continued by the entrepreneur who is a physical person, has a domicile on the territory of the Czech and Slovak Federal Republic, and fulfills the general and special conditions for engaging in small business activities.

## Section 12

(1) Small business activities may be engaged in in the name of and at the responsibility of a physical person who, for a lack of sufficient years or on account of a court decision, is not fit to undertake legal activities, with the approval of the court, provided the individual's legal representative so proposes.

(2) In such a case, the legal representative shall appoint a responsible representative with the approval of the court; the legal representative shall report the small business activities or request a concession.

## Section 13

### Continuation of Small Business Activities Following the Death of the Entrepreneur

(1) If an entrepreneur dies, the small business activities may be carried on until termination of the inheritance proceedings by the following individuals:

- a) The legal heirs, as long as they are not listed in the last will and testament;
- b) Testamentary heirs and the surviving spouse, even though that individual is not an heir, but is a co-owner of the property used in the conduct of the small business activities;
- c) The surviving spouse who fulfills the conditions listed under Letter b) above, where the heirs do not continue engaging in the small business activities;

d) The conservator engaged in administering the enterprise, provided he has been appointed to preserve the operations of the enterprise by the organization handling the inheritance.

(2) If an individual fails to fulfill the conditions listed in Paragraph 1, Letters a) through c), as stipulated in Sections 6 and 7, or if there are obstacles according to Section 8, or if the individual is not domiciled on the territory of the Czech and Slovak Federal Republic, he must immediately appoint a responsible representative.

(3) If the conservator fails to fulfill the conditions outlined in Paragraph 1, Letter d), of Section 7, he must immediately appoint a responsible representative.

(4) Upon termination of the inheritance proceedings, individuals listed in Paragraph 1, Letters a) through c), may continue to engage in the small business activities, to the extent to which they have acquired a material share in the small business activities; provisions in Paragraph 2 also apply. However, if within six months of the termination of the inheritance proceedings, they fail to acquire their own small business authorization, they may not continue to engage in small business activities. The surviving spouse who was the co-owner of the property used in the small business activities, or who acquired this property or a share in the property through inheritance, may engage in small business activities even after this deadline on the basis of a small business authorization held by a devisee.

## Section 14

### Continuation of Small Business Activities When a Commercial Corporation Has Changed

(1) In the event a commercial corporation changes to another form of corporation or to a cooperative, the new corporation or cooperative may continue to engage in the small business activities of the defunct corporation.

(2) The provisions of Paragraph 1 above apply also to cases where corporations are merged or combined.

(3) In cases where corporations are split up, all newly formed corporations which have taken over the operation or the secondary operation and in which the appropriate small business activities of the defunct corporation were being carried out, may continue to engage in small business activities. Individuals authorized to conduct negotiations in the name of the split corporation shall report to the small business office the extent to which each of the newly formed corporations shall engage in small business activities, and shall also report the personnel data pertaining to their respective responsible representatives. On the basis of this notification, the small business office shall issue new small business licenses or concession certificates. The provisions of Section 11, Paragraph 8, remain in effect.

## Section 15

### Continuation of Small Business Activities When a Cooperative Undergoes Change

When a cooperative is changed into a corporation, when cooperatives are merged or combined or split up, provisions of Section 14 apply.

## Section 16

### Conduct of Several Small Business Activities by One Entrepreneur

An entrepreneur may engage in several small business activities, provided he has a small business authorization to conduct each of them.

#### Operations

## Section 17

(1) An operation is defined as the area in which small business activities are conducted.

(2) On the basis of a small business license, small business activities may be conducted even in additional operations (hereinafter referred to as "secondary operations"), provided that this fact is reported by the entrepreneur within 30 days to the small business office in the territorial circuit where the operation is located. If the operation falls within the circuit of another small business office, the entrepreneur shall notify even the small business office which issued the original small business license of its establishment.

(3) The entitlement to engage in a concession-type small business in a secondary operation arises as a result of the approval by the small business office, granted in the territorial circuit in which the secondary operation is located. If the secondary operation is located in the circuit of another small business office, the entrepreneur shall report its establishment even to the small business office which issued the original concession license.

(4) Provisions of Sections 29 and 30 and provisions covering the approval of the community to permit location of the operation in the community<sup>29</sup> are applicable to secondary operations as well.

## Section 18

Provisions of Section 17 are likewise applicable to relocating small business activities to another location than the one listed in the small business or concession license.

[6 Nov pp 3-4]

[Text]

## PART TWO. TYPES OF SMALL BUSINESS ACTIVITIES

### Chapter I. Reporting-Type Small Businesses

## Section 19

The following are reporting-type small business activities:

- a) Trade-type activities, a condition for which is a specialized suitability based on apprenticeship in the appropriate branch;
- b) Controlled small business activities, where the conditions for engaging in them involve specialized suitability acquired in another manner;
- c) Free small business activities which do not require any stipulated specialized suitability in order to be engaged in.

### Segment 1. Trade-Type Small Business Activities

## Section 20

Trade-type small business activities are small business activities listed in Supplement No. 1 to the law.

#### Specialized Suitability

## Section 21

(1) Specialized suitability is documented by a journeyman's certificate<sup>30</sup> or by another document which attests to the regular conclusion of an apprenticeship and a document showing that three years of practical experience in the discipline at question was acquired, or possibly in a related discipline (provided the length of practical work experience is not stipulated to be otherwise).

(2) Practical experience in the discipline is also understood to be basic (replacement) service in the armed forces or civilian service, provided that during that service the kind of work which is the object of the appropriate trade-type small business activities was carried out on a regular basis. Documentation proving that this work was done is a written certification, issued by the appropriate organ of the armed forces or by the organization where the citizen performed civilian service.

## Section 22

(1) Documents attesting to specialized suitability, as listed in Section 21 above, can be replaced by the following:

- a) A certificate attesting to the final examination at a mid-level specialized training center and a document showing that three years of practical experience have been acquired in the appropriate discipline or possibly in a related discipline, or

- b) A certificate attesting to the fact that a maturity examination has been passed at a specialized middle school or at a mid-level specialized training center or at a gymnasium in subjects of specialized education or that extended study in the same discipline has taken place, accompanied by a document showing that two years of practical experience have been acquired in the discipline or in a related discipline,<sup>31</sup> or
- c) A certificate attesting to graduation from an advanced school in the appropriate technical or economic discipline and a document indicating that one year of practical experience has been acquired in the discipline, or
- d) The successful passing of a qualifying examination before a commission of representatives of the small business office, an appropriate mid-level specialized school or a mid-level specialized training center, as well as the appropriate trade guild to the extent to which one is established.

(2) Legal provisions which shall be issued by members of the central organs of state administration of the republics shall determine the substantive content and method of administering the tests prescribed in Paragraph 1, Letter d).

### Segment 2. Controlled Small Business Activities

#### Section 23

Controlled small business activities are those small business activities listed in Supplement No. 2 [not included] to the law.

#### Section 24

##### Specialized Suitability

Specialized suitability for engaging in controlled small business activities is regulated by special regulations listed in Supplement No. 2 to the law or stipulated by this supplement.

### Segment 3. Free Small Business Activities

#### Section 25

(1) Free small business activities are those small business activities which are not listed in Supplements No. 1 through 3 [not included] to the law.

(2) With respect to the conduct of these small business activities, general conditions need to be fulfilled. Documenting specialized or other suitability is not required.

## Chapter II. Concession-Type Small Business Activities

#### Section 26

Concession-type small business activities are listed in Supplement No. 3 to the law.

#### Section 27

##### Specialized Suitability and Other Conditions

(1) Specialized suitability for concession-type small business activities is regulated by special regulations contained in Supplement No. 3 to the law or stipulated in that supplement.

(2) A special condition for engaging in concession-type small business activities is even the attribute of reliability, which is judged in relation to the object of the enterprise with emphasis on protecting the life, health, and property as well as other rights of individuals and public interest.

(3) The small business office may stipulate conditions for the entrepreneur which govern his engagement in small business activities. Particularly, the office is authorized to restrict the conduct of small business activities to certain territories for reasons of the public interest, and possibly to grant a concession for a limited period of time.

### PART THREE. EXTENT OF SMALL BUSINESS AUTHORIZATION

#### General Provisions

#### Section 28

(1) The scope of a small business authorization is judged in accordance with the small business license or the concession license, taking into account the provisions of this part of the law.

(2) In doubtful cases, the small business office shall make a decision following a position taken by the appropriate chamber of commerce and the small business association.

#### Duties of the Entrepreneur

#### Section 29

(1) In engaging in small business activities, an entrepreneur is obligated to provide the most effective protection for the natural environment and work environment, for natural resources and cultural monuments against any harmful effects his activities could cause. Duties defined in Section 127, Paragraph 1, of the Civil Code remain in effect.

(2) An entrepreneur is obligated to create installations to protect the natural and working environment against any harmful effects which his activities either cause or can cause, he is obligated to activate these facilities together with appropriate production or nonproduction facilities and to continuously assure their smooth and effective functioning.

(3) Expenditures resulting from measures to eliminate damage caused by activities of the entrepreneur and for measures to shape and protect the natural and working

environment which are threatened by his activities are to be borne by the entrepreneur.

(4) The method and extent of protective measures are stipulated in special regulations.<sup>32</sup>

### Section 30

#### Inspection of Operating Facilities

(1) An entrepreneur is obliged to make it possible for the small business office to convince itself of the suitability of the operating facility in question by making an on-the-spot inspection even before it issues a small business license, as well as anytime thereafter.

(2) If it is purposeful to do so from the standpoint of the requirements stipulated in special regulations or in view of other circumstances, particularly for purposes of judging whether the operation is unobjectionable, the small business office may avail itself of the services of the appropriate organ of state administration for purposes of conducting the inspection in accordance with Paragraph 1 above.

(3) The small business office shall give the entrepreneur a certificate confirming that an inspection has been accomplished in accordance with Paragraph 1 above.

(4) In the event the small business office determines that the status of the operations constitutes a threat to the life, health, and security of persons, to the natural and working environment, or that the operation has other defects, it shall compile a written record of the inspection which it delivers to the entrepreneur as well as to the appropriate organ of state administration.

### Section 31

(1) The entrepreneurial facility, as well as any secondary facility, must be visibly marked with its trading name or the purpose of the entrepreneurial activity.

(2) The entrance doors or another suitable and visible location must bear the following inscription:

- a) The commercial name, location, or possibly even the domicile of the entrepreneur;
- b) The name and surname of the individual responsible for the activities of the operating facility;
- c) The sales or operating hours set aside for contact with customers;
- d) The category and group classification in the event of catering operations;
- e) The category and class classification for facilities offering accommodations.

(3) In the event the facility is to be closed, the entrepreneur is obligated to post a notice, provided no serious reasons intervene, at least three days prior to closing, indicating the beginning and the end of the closing and post the notice in a suitable visible location.

(4) An entrepreneur who sells products or services to a consumer is obligated to mark the product with prices or to provide the customer with access to a price list or inform customers of prices through another suitable method.<sup>33</sup> The customer must be permitted to verify the correctness of the prices charged and the correctness of measures used. Only measures which fulfill requirements stipulated by special regulations<sup>34</sup> may be used in operating facilities or in the pursuit of a trade.

(5) The entrepreneur is obligated, when requested to do so, to provide the customer with a document indicating the purchase of a product or the rendering of a service.

(6) The entrepreneur is responsible to the control organs for providing credible proof regarding the method by which he acquired a product and/or materials.

(7) In pursuit of a trade, an entrepreneur is obligated to adhere to the conditions stipulated by the small business law or by specialized regulations.<sup>35</sup> He is responsible for seeing to it that his employees demonstrate their suitability to engage in their profession, as stipulated by special regulations, and that they are familiar with hygienic and safety regulations. If the nature of the work or another activity so requires, the entrepreneur is also responsible for seeing to it that his employees have subjected themselves to examinations in accordance with regulations on measures to prevent contagious diseases.<sup>36</sup>

(8) An operating facility must an inspection book into which control organs make entries regarding the carrying out of control inspections and regarding measures which have been ordered to be taken and which have been adopted.

### Section 32

From the standpoint of the type of entrepreneurial activity, the following trades are considered to be small business activities:

- a) Commercial activities;
- b) Production activities;
- c) The rendering of services.

## Chapter II. Commercial Small Business Activities

### Section 33

#### General Provisions

The following are commercial small business activities:

- a) The purchase of products for purposes of subsequent sales and product sales;
- b) Catering activities;
- c) The providing of accommodations;
- d) The activities of a travel agency;

- e) The renting of industrial products;
- f) The renting of motor vehicles;
- g) The conduct of auctions other than auctions ordered by the court.

### Section 34

#### Extent of Authorization

- (1) Within the framework of his small business authorization, a small business entrepreneur engaging in activities listed in Section 33, Letter a), may do the following:
  - a) Rent out a product;
  - b) Broker the sale and purchase of products in individual cases;
  - c) Make small alterations to products through which he adapts the product to the requirements of the purchaser;
  - d) Conduct assembly operations involving a product delivered to a customer, where these can be accomplished through simple operations not requiring specialized knowledge;
  - e) Exchange defective parts of a delivered product, where this can be done in a simple manner without requiring special knowledge.
- (2) An entrepreneur is also authorized to perform service involving a delivered product, provided he utilizes the services of a specially suited person for this purpose.
- (3) In the event the activities listed in Paragraphs 1 and 2 require a concession, the entrepreneur may engage in this activity only if he holds such a concession.
- (4) An entrepreneur has the right to accept orders for the fabrication, processing, or modification of a product he is authorized to sell and he may have the work performed by an authorized manufacturer.
- (5) In accomplishing changes according to Paragraph 1, Letter c), or modifications according to Paragraph 4, the entrepreneur is obligated to see to it that the changes or modifications do not result in the removal of the designation of the product origin, including the trademark.

### Section 35

- (1) On the occasion of holidays, festivities, and sporting events or other similar activities, an entrepreneur may sell foodstuffs and other products which are normally offered on these occasions and the sale of which is the object of his entrepreneurial activities, even away from his normal operating facility.
- (2) He shall notify the community in whose jurisdiction the event is taking place at least three days in advance of this sale.

### Section 36

- (1) An entrepreneur may sell products even in mobile sales facilities.
- (2) The mobile facilities must meet the requirements of technical and hygienic regulations. An entrepreneur may also sell products from the flat bed of vehicles, provided hygienic regulations do not prevent this method of selling.
- (3) The entrepreneur shall report the establishment of a mobile sales facility as well as sales from a truck bed to the small business office.
- (4) Provisions of Section 30 and Section 35, Paragraph 2, are applicable.

### Section 37

- (1) An entrepreneur may engage in selling a product insofar as its sale does not require a concession with the aid of vending machines serviced by the customer.
- (2) He shall report the placing of a vending machine outside of the premises of his operating facility ahead of time to the small business office, if he has obtained prior approval of the community concerned.

### Section 38

#### Catering Activities

Catering activities are understood to be the preparation and sale of meals, beverages, semifinished products, or possibly the supplemental sale of products.

### Section 39

#### Accommodation

Accommodation is understood to be the provision of temporary accommodation and supplemental services connected therewith in return for payment.

### Section 40

#### Travel Agencies

- (1) Activities of a travel agency are understood to be primarily the organization of recreational, tourist, topical, and other excursions and sojourns, the brokering of transportation arrangements, catering arrangements and accommodations, the purchase of tickets, and the provision of tourist guide activities.
- (2) Travel agencies are authorized to sell maps and city plans, timetables, printed guidebooks, and souvenirs.

### Section 41

#### Auctions Other Than Court-Ordered Auctions

An auction other than a court-ordered auction is understood to be the voluntary sale of previously identified movable property, during which the subject property is

offered for sale at a previously determined time simultaneously to an undetermined number of buyers and is sold to the highest bidder. The ownership of movable properties which are subjected to auction sales is transferred to the new owner as a result of the fall of the auctioneer's gavel.

### Chapter III. Production-Type Small Business Activities

#### Section 42

##### Extent of Authorization

(1) Within the framework of a small business authorization, an entrepreneur has the right to sell and repair products, as long as the character of the small business activities remains intact.

(2) The entrepreneur further has the right to the following:

- a) To purchase, for purposes of subsequent sale, and to sell the products of even other manufacturers, along with accessories, as long as they are of a kind which is equal to the products of his own manufacture, or, in individual cases, he has the right to broker the sale of other products and accessories;
- b) To produce and print wrappings, labels, and other auxiliary devices, facilitating the sale of the products he manufactures;
- c) To rent out products of his own manufacture as well as products of other manufacturers of a similar kind, as well as all accessories;
- d) To perform assembly work, setting up work, and maintenance on these products.

(3) The purchase, sale, brokering of sales and renting out of the product of others (Letters a) and c) above) may be conducted only to the extent to which the character of the production activities remains preserved.

### Chapter IV. Small Businesses Offering Services

#### Section 43

For purposes of this law, services are understood to be the provision of repair and maintenance services, the transportation of persons and products, and other work and output designed to satisfy other requirements.

#### Section 44

##### Extent of Authorization

(1) The provisions of Section 42, Paragraphs 2 and 3, as well as the provisions of Section 36 are applicable to entrepreneurs providing services, provided the nature of their small business activities is preserved.

(2) An entrepreneur entitled to transport passengers and products may engage in activities connected with

assuring the safety and comfort of travelers, may trans-load, store, and package shipments, store catering materials and provide catering services within the appropriate transport media.

(3) An entrepreneur entitled to operate garages and parking lots (Section 4, Paragraph 2) may, under conditions stipulated in special regulations, sell motor fuels, oils, and vehicle parts. Similar rights accrue to an entrepreneur who is engaged in the repair of motor vehicles.

### PART FOUR. SMALL BUSINESS LICENSE, CONCESSION LICENSE, SMALL BUSINESS REGISTER

#### Chapter I. Small Business License

#### Section 45

##### Small Business Reporting Requirement

(1) Anyone who intends to engage in reporting-type small business activities is obligated to report this fact to the small business office which has jurisdiction in accordance with the domicile of the entrepreneur or with respect to the location of the undertaking.

(2) In this report, a physical entity shall report the following:

- a) The name and Christian name, permanent domicile, birth register number, and information indicating whether a court or an administrative organ has prohibited the activities connected with the conduct of the small business involved; in the event the entrepreneur appoints a responsible representative, he shall provide data pertaining to that person's identity; if a new small business activity is being reported, the person entered in the Commercial Register shall attach an extract from this register;
- b) The trading name;
- c) The objective and location of the undertaking;
- d) The identification number, provided one has been assigned;
- e) The operation and subsidiary operations, provided they have been established;
- f) The duration of the entrepreneurial undertaking, where the intent is to engage in small business activities for a specific period of time.

(3) A legal entity shall list the following:

- a) The trading name, domicile, legal form, as well as the name and domicile of the individual or individuals who are the statutory organs of the entity, the method by which they will act for the legal entity involved, and personnel information pertaining to the responsible representative;
- b) The identification number;

- c) The objective of the undertaking;
- d) The operation and subsidiary operations, provided they have been established;
- e) The duration of the entrepreneurial undertaking, where the intent is to engage in small business activities for a specific period of time.

(4) The founders or other individuals and organs listed in Section 10, Paragraph 4, shall provide data, in accordance with Paragraph 3, Letters a), c), d), and e), and attach a document showing that a legal entity has been established.

#### Section 46

(1) A physical person shall attach the following to the report:

- a) An extract from the Register of Criminal Acts, which is not any older than six months, and, if a responsible representative has been appointed, an extract from the Register of Criminal Acts pertaining to the representative;
- b) In engaging in trade-based or restricted small business activities, a document proving the individual's specialized suitability or the specialized suitability of the appointed representative.

(2) A legal entity shall include the following with the report:

- a) An extract from the Register of Criminal Acts pertaining to the responsible representative;
- b) With respect to reporting-type trade-based and restricted small business activities, a document proving the specialized suitability of the responsible representative.

(3) A document showing the approval of the community with respect to locating the operation in the community shall be attached to the report.<sup>29</sup>

(4) In the event the report is submitted by the legal representative of an individual who is not fully entitled to engage in legal acts, permission from the appropriate court must be attached (Section 12).

#### Section 47

##### Issuance of a Small Business License

(1) If the small business office determines that the report is complete with all appropriate documents and that the entrepreneur fulfills the conditions stipulated in the small business law, it shall issue a small business license within 15 days from the day the report of small business activities was delivered to it.

(2) The small business license issued to a physical person shall contain the following:

- a) The name and Christian name of the entrepreneur, his domicile, and birth record number, and, if a responsible representative has been appointed, data pertaining to that person as well;
- b) The trading name and identification number;
- c) The objective and location of the undertaking;
- d) The operation and subsidiary operations, provided they have been established;
- e) The duration of the small business license, where the intent is to engage in small business activities for a specific period of time.
- f) The date on which the small business license was issued.

(3) The small business office shall assign an identification number to the physical person. The necessary identification number shall be communicated to the small business office by the appropriate organ of state administration.

(4) A small business license issued to a legal entity shall contain the following:

- a) The trading name, seat, and identification number, by which the legal entity was already entered in the Commercial Register prior to reporting small business activities and personal data pertaining to the responsible representative;
- b) The objective of the undertaking;
- c) The operation and subsidiary operations, provided they have been established;
- d) The duration of the small business license, where the intent is to engage in small business activities for a specific period of time.

(5) If the small business office finds that the report is missing some legally stipulated particulars (Sections 45 and 46), it shall challenge the entrepreneur to eliminate the shortcomings within 15 days. In its challenge, it stipulates the appropriate time limit for the elimination of shortcomings, but will allow at least 15 days. If serious reasons exist, the small business office may extend this time limit at the request of the entrepreneur and may even do so repeatedly.

(6) If the entrepreneur eliminates the shortcomings within the stipulated time or within the extended time, the report is considered to have had no shortcomings from the very beginning. If the shortcomings are not eliminated within the stipulated time, the small business office shall terminate its deliberations.

(7) If the small business office finds that the entrepreneur has not fulfilled the conditions established by this law, it shall decide that the small business entitlement has not come about as a result of the reporting activity.

### Section 48

(1) The small business office shall send a copy of the small business license to the organ engaged in administering tax matters, to the appropriate state statistical authorities, to the community which expressed its approval for the location of the operation, to the chamber of commerce, and to the small business association, provided these have been established.

(2) If special laws so require, the small business office shall also send a copy of the small business license to that particular organization which is identified in the special law.

(3) If the entrepreneur is a physical person who is domiciled on the territory of the CSFR, the small business office shall send a copy of the small business license to the organ responsible for the entrepreneur's social security.

(4) As is listed in the Supplement to this law, the small business office shall also send a copy of the small business license to the organization which has been authorized to represent authors or creative artists in matters having to do with their rights in accordance with the copyright law.<sup>37</sup>

### Section 49

#### Changes in the Data Listed in the Report

(1) An entrepreneur is obligated to report to the small business office all changes having to do with data and documents required for purposes of reporting small business activities and to present appropriate documentation within 15 days of the time these changes become effective.

(2) On the basis of notification according to Paragraph 1 above, the small business office shall, depending on the circumstances in the case, decide on changing the small business license, or shall decide on halting the conduct of small business activities temporarily, or shall rescind the small business authorization. A copy of the decision shall be sent to the organization listed in Section 48 above.

## Chapter II. Concession License

### Section 50

#### Particulars Involved in Requesting a Concession

(1) Anyone who intends to engage in concession-type small business activities is obligated to request that a concession license be issued by the small business office which is responsible for the area in which the entrepreneur is domiciled or in which the undertaking is located.

(2) For purposes of the particulars regarding a concession, the provisions which are listed for reporting-type small business activities also apply.

(3) If there are conditions attached to engaging in small business activities, particularly specialized suitability, then the request for a concession must be accompanied by the following:

- a) In the case of a physical person, a document proving his/her specialized and other suitability or possibly a document proving the specialized and other suitability of a responsible representative;
- b) In the case of a legal entity, a document proving the specialized and other suitability of a responsible representative.

### Section 51

(1) If the small business office finds that the particulars of the request for a concession have not been fulfilled, it shall challenge the entrepreneur to eliminate any shortcomings within 30 days from the time the request for a concession was delivered, but no sooner than 15 days. If serious reasons exist, the small business office can, at the request of the entrepreneur, extend the time limit, even repeatedly.

(2) If the entrepreneur eliminates the shortcomings within the stipulated time or within the extended time, the small business office shall begin dealing with the request. If shortcomings are not eliminated within the stipulated time, the small business office shall terminate its deliberations.

### Section 52

#### Handling of Requests

(1) If engaging in small business activities in accordance with special regulations or in accordance with the terms of Supplement No. 3 of the law it is unavoidable for the purposes of the authorization or permission, or for a position to be taken by an organ of state administration, the small business office shall submit to that body the request for a concession: The appropriate organ is obligated to take a position on the request within 30 days from the time the request was delivered to it, provided that Supplement No. 3 does not stipulate otherwise. The small business office shall be bound by this position.

(2) If the nature of the small business activities so requires, the small business office may even request the opinion of additional organizations, which are obligated to provide such opinion within 30 days.

(3) Furthermore, the small business office shall request a position be taken by the economic chamber or by the small business association, provided such bodies have been established.

### Section 53

#### Decisions Regarding Concessions

(1) Prior to deciding on granting a concession license, the small business office shall make sure that the general and

special conditions for engaging in small business activities have been fulfilled and whether the likelihood exists that the requester will fulfill even additional conditions (Section 27, Paragraph 3). In so doing, it bases its decision on the positions taken by the organs listed in Section 52 above and also takes into account whether the operation involved is suitable for the conduct of small business activities.

(2) In the event none of the conditions listed in Paragraph 1 above are fulfilled or if the appropriate organ of state administration does not agree with granting a concession in accordance with special regulations or if the community does not agree, the small business office shall reject the request.

(3) A small business office shall make a decision regarding the request for a concession within 60 days of the day the request is submitted, provided Supplement No. 3 to this law does not stipulate otherwise.

(4) The concession license replaces the license or authorization in accordance with special regulations involved in the engagement of concession-type small business activities.

#### Section 54

##### Issuance of a Concession License

(1) The concession license issued to a physical person shall contain the following:

- a) The name and Christian name of the entrepreneur, permanent domicile, and birth record number; if a responsible representative has been appointed, the same data pertaining to that person is required;
- b) The trading name and identification number;
- c) The objective and location of the undertaking;
- d) The operation and subsidiary operations, provided they have been established;
- e) Conditions imposed upon the conduct of small business activities in accordance with Section 27, Paragraph 3;
- f) The duration of the concession license;
- g) The date on which the concession license was issued.

(2) A concession license issued to a legal entity shall contain the following:

- a) The trading name, seat, and identification number, provided the legal entity was registered in the Commercial Register prior to submitting the request, and personal data pertaining to the responsible representative;
- b) The objective of the undertaking;

- c) The operation and subsidiary operations, provided they have been established;
- d) Conditions imposed upon the conduct of small business activities in accordance with Section 27, Paragraph 3;
- e) The duration of the concession license;
- f) The date on which the concession license was issued.

#### Section 55

##### Dissemination of Copies of the Concession License

The provisions in Section 48 apply.

#### Section 56

##### Changes in Data Listed in the Request for a Concession

(1) An entrepreneur is obligated to report to the small business office all changes pertaining to the data and documents which are stipulated as being particulars of the request for a concession and to present documentation to this effect within 15 days of the change involved.

(2) On the basis of reports in accordance with Paragraph 1, the small business office shall, depending on the circumstances, decide to change the concession license, or to temporarily halt the engagement in small business activities, or to rescind the small business authorization. A copy of the decision shall be sent to the organizations listed in Section 48.

#### Chapter III. Extinguishment of Small Business Authorizations

##### Section 57

(1) The authorization to engage in small business activities is extinguished under the following circumstances:

- a) By the death of the entrepreneur, provided the activities are not continued by his heirs or by an administrator appointed to administer the enterprise; however, the authorization becomes null and void at the latest upon the expiration of the deadline listed in Section 13, Paragraph 4;
- b) As a result of the extinguishment of the legal entity, provided this is not a case identified in Section 13, Paragraph 4;
- c) As a result of the expiration of the time, provided the small business license or the concession license were issued for a specific period of time;
- d) As a result of a decision by the small business office.

(2) The death of an entrepreneur does not result in the demise of his small business authorization, provided the surviving spouse continues the small business activities.

(3) If the small business authorization becomes extinguished, the entrepreneurs or other individuals who continued engaging in the small business activities are obligated to return the small business license or the

concession license to the small business office which issued it originally, without undue delay.

### Section 58

(1) The small business office which has issued a small business license or a concession license shall rescind the small business authorization under the following circumstances:

a) If the entrepreneur no longer fulfills the legally stipulated conditions identified in Section 6, Paragraph 1, Letters b) and c), or if, in cases according to Section 6, Paragraph 1, Letter b), a responsible representative was appointed;

b) If obstacles identified in Section 8 come into being;

c) At the request of the entrepreneur.

(2) A small business office which has issued a small business license or a concession license may rescind the small business authorization or may temporarily halt the small business activities under the following circumstances:

a) If the entrepreneur seriously violates the conditions stipulated by the small business license or concession license on the basis of this law or as a result of other legal regulations;

b) If the entrepreneur has not begun engaging in small business activities within a period of more than five years from the time the small business or concession licenses were issued.

(3) In the event the facility in question ceases to be utilized or the operation or part of the operation<sup>38</sup> ceases to be operated and the entrepreneur was required to eliminate shortcomings, the small business office may, to a corresponding extent, rescind the small business authorization or temporarily halt the small business activities, provided the entrepreneur fails to eliminate shortcomings within one year from the stipulated deadline or, if that was not stipulated, within one year of the decision.

(4) If a small business authorization has been rescinded for reasons listed in Paragraphs 2 and 3 above, an entrepreneur may report reporting-type small business activities or may request a concession license at the earliest following the expiration of one year from the date the decision to rescind the small business authorization has become legally effective.

### Section 59

A copy of the decision pertaining to changes or the temporary halting or rescinding of the small business authorization shall be sent by the small business office to addressees listed in Section 48.

## Chapter IV. The Small Business Register

### Section 60

(1) Small business offices shall maintain small business registers into which they shall enter those entrepreneurs who have small businesses on the territory of their jurisdictions.

(2) The register entries shall contain the following:

- a) In the case of a physical person, the name, Christian name, and domicile, the birth record number, and the identification number of the entrepreneur, as well as data pertaining to any responsible representative, if one has been appointed. For legal entities, the entry shall contain the name, the trading name, the seat, the identification number, and data pertaining to the responsible representative;
- b) The objective and location of the undertaking;
- c) The type of small business;
- d) Conditions for engaging in small business activities, to the extent to which they have been stipulated;
- e) The operation or subsidiary operations, provided they have been established;
- f) The duration of the validity of the small business license or the concession license;
- g) Changes pertaining to the above data;
- h) The temporary halting or the extinguishment of the small business entitlement.

(3) Anyone who can prove that they have a legal interest may have access to the register.

## PART FIVE. PENALTIES

### Chapter I. Unauthorized Activities

#### Section 61

(1) A legal entity engaging in activities without small business authorization, where such activities are the subject of uncontrolled small business activities, may be fined by the small business office up to 50,000 korunas [Kcs].

(2) In the event such a person acquires a considerable property advantage, the small business office may levy a fine of up to Kcs100,000.

(3) In the event the property advantage is great, the small business office may levy a fine as high as Kcs500,000.

#### Section 62

(1) A legal entity engaging in activities which are trade-type small business activities or restricted-type trade activities, without a small business authorization, can be fined by the small business office up to Kcs100,000.

(2) If activities engaged in by a person listed in Paragraph 1 above and by the responsible representative do not fulfill the conditions according to Section 7 or acquire a considerable property advantage, the small business office may levy a fine of up to Kcs200,000.

(3) If a person listed in Paragraph 1 acquires a property advantage which is considered great, the small business office may levy a fine as high as Kcs750,000.

### Section 63

(1) A legal entity engaging in activities with a small business authorization, which activities are the object of concession-type small business activities, can be fined by the small business office up to Kcs200,000.

(2) If such activities are engaged in by the person listed in Paragraph 1 above and if the responsible representative fails to fulfill the conditions identified in Section 7 or acquires a considerable material advantage as a result, the small business office may levy a fine of up to Kcs500,000.

(3) If the person listed in Paragraph 1 above acquires a material advantage which is considered to be great, the small business office may levy a fine of up to Kcs1 million.

### Section 64

(1) A considerable material advantage is understood to be a sum amounting to at least 50 times the lowest monthly wage stipulated by generally valid legal regulations for purposes of the Criminal Law,<sup>39</sup> a material advantage considered to be great is understood to be a sum of at least 250 times such a wage.

(2) The provisions of the Criminal Law<sup>40</sup> and the law on misdemeanors having to do with prosecuting physical persons for unauthorized activities continue to apply.

## Chapter II. Violation of Other Provisions of the Law

### Section 65

(1) A small business office may levy a fine on entrepreneurs of up to Kcs100,000 under the following conditions:

a) If the entrepreneur does not appoint a responsible representative, but is obliged to do so with respect to concession-type small business activities and fails to submit this appointment for approval to the small business office or fails to notify that office of the termination of the functions of the responsible representative (Section 11, Paragraph 8);

b) If the entrepreneur transfers his operation or establishes a secondary operation, in the case of concession business activities, without the approval of the small business office (Section 17, Paragraph 3, and Section 18);

c) If the entrepreneur does not adhere to the conditions stipulated for the conduct of concession-type small business activities (Section 27, Paragraph 3);

d) If the entrepreneur fails to adhere to conditions stipulated in Section 31, Paragraph 6;

e) If the entrepreneur fails to agree on the required contractual insurance amount (Section 68 and Section 78, Paragraphs 2 and 3).

(2) A small business office may levy a penalty of up to Kcs50,000 if the entrepreneur:

a) Does not appoint a responsible representative for reporting-type small business activities, if he is obligated to do so (Section 11, Paragraph 6), and does not report that appointment to the small business office or fails to communicate to that office the termination of the functions of the responsible representative (Section 11, Paragraph 7);

b) Fails to report the transfer of his operation or the establishment of a secondary operation in the event of reporting-type small business activities to the small business office (Section 17, Paragraph 3, and Section 18).

(3) A small business office may levy a fine against an entrepreneur of up to Kcs20,000 if the entrepreneur:

a) Fails to report to the small business office that he has appointed a responsible representative, even though he is not obligated to do so (Section 11, Paragraph 6, Sentence 1);

b) Fails to report that the responsible representative no longer resides on the territory of the CSFR;

c) Fails to report changes contained in the initial report (Section 49, Paragraph 1) or in the application, on the basis of which the decision was made to grant him a concession (Section 56, Paragraph 1).

(4) A small business office may levy a fine against the responsible representative of up to Kcs20,000 if that individual is carrying out such functions for more than two entrepreneurs or because he no longer resides on the territory of the CSFR (Section 11, Paragraph 3).

(5) A small business office may levy a fine of up to Kcs10,000 against a person who fails to fulfill the obligation of returning a small business activities license or concession license (Section 10, Paragraph 5, and Section 57, Paragraph 3).

## Chapter III. The Levying of Fines

### Section 66

(1) A small business office may initiate the levying of fines according to Sections 61 through 63 above only within one year of the day it learned of the unauthorized actions committed by a legal entity, but no later than five years from the day the violation occurred; in the event of

a continuing unauthorized action, no later than five years from the time the unauthorized enterprise continued.

(2) A small business office may initiate the imposition of fines according to Section 65 only within the period of one year from the day it learned of the facts listed in Section 65, but no later than three years from the time this fact occurred, or from the time these facts still persist.

(3) Fines imposed according to Sections 61 through 63 and according to Section 65 are revenue for the state budget of the Czech or of the Slovak Republic, depending on the territory in which the fine was levied.

## **PART SIX. COMMON, TRANSITORY, AND CONCLUDING PROVISIONS**

### **Chapter I. Common Provisions**

#### **Section 67**

##### **Labor Code Relationships**

Labor Code relationships between the entrepreneur and his employees are governed by legal labor regulations.

#### **Section 68**

##### **Obligatory Contractual Insurance**

If an entrepreneur employs at least a single employee, he is obligated to carry contractual insurance to cover damage caused by his employee in the fulfillment of his duties or in direct connection with these duties, for which the entrepreneur is responsible. The entrepreneur is obligated to carry this insurance in such a manner that the insurance policy is effective as of the day on which the employee relationship originates on the basis of the initial employee contract.

#### **Section 69**

##### **Small Business Associations**

(1) A small business association is an association of entrepreneurs in a certain activity or certain branches of small business activities, conducted over a specific territory.

(2) The associations defend and support the common interests of entrepreneurs, who are their members, and contribute to the proper conduct of small business activities. Upon request, or on their own initiative, they provide organs of state administration with proposals, information, and position papers on small business activities within the areas of their jurisdictions.

#### **Section 70**

An entrepreneur who trains young persons (apprentices) for a profession is obligated to abide by special regulations.<sup>44</sup>

### **Section 71**

#### **Procedures in Matters Regulated by This Law**

(1) Procedures in matters regulated by this law are governed by the law on the Administrative Code,<sup>45</sup> provided the individual provisions of this law do not stipulate otherwise.

(2) Legal decisions in matters regulated by this law are subject to examination by the courts, in accordance with special regulations.

### **Section 72**

#### **Verification Procedures**

In cases of verification<sup>46</sup> involving operations, the small business office acts as a competent organ of state administration.

### **Section 73**

#### **International Treaties**

The provisions of this law are not applied if something else is stipulated in an international agreement to which the Czech and Slovak Federal Republic is a party and which has been published in the Collection of Laws (Zbierka zákonov).

[13 Nov p 4]

[Text]

### **Chapter II. Transitory and Final Provisions**

#### **Section 74**

##### **Preservation of Existing Authorizations**

(1) Physical and legal entities may continue their entrepreneurial activities, which are defined as small business activities according to this law, for the period of one year from the day this law becomes effective on the basis of an authorization to engage in entrepreneurial activities or an entrepreneurial authorization which they have acquired prior to the effective date of the law. After expiration of the stipulated deadline, these authorizations become extinguished.

(2) Physical persons who lose their authorization to engage in entrepreneurial activities in free or trade-type small business activities as a result of the expiration of the above deadline simultaneously acquire a small business authorization to engage in this activity. A small business license is issued by a small business office within the deadline stipulated in Paragraph 1.

(3) Physical persons who are authorized to engage in entrepreneurial activities on the day on which the small business law takes effect in restricted or concession-type small business activities shall submit to the small business office, within nine months of the effective date of the law, documents proving that they are fulfilling the conditions stipulated by the law or that they have

appointed a responsible representative who fulfills such conditions. Under these conditions, the small business office shall, within 60 days of the submission of the documents, issue a small business license or a concession license.

(4) Legal entities who hold an entrepreneurial authorization on the day the law becomes effective and are authorized to engage in activities which are defined as small business activities shall submit to the small business office, within nine months of the effective date of this law, documents proving that they have appointed a responsible representative who fulfills the conditions stipulated by law. Under those conditions, within 60 days, the small business office shall issue a small business license or a concession license.

(5) If the individuals listed in Paragraphs 3 and 4 above do not submit the required documents to the small business office, or fail to prove the fulfillment of conditions required for the engagement in small business activities, they do not earn the right to a small business authorization. In cases of doubt as to whether the conditions for engaging in small business activities have been fulfilled, the decision shall be made by the small business office.

### Section 75

(1) Applications by physical individuals for registration of entrepreneurial activities which are of a small business nature, submitted in accordance with existing regulations and which have not been decided prior to the effective date of this law, are considered as a report of entrepreneurial activities or an application for a concession.

(2) Applications for authorizations, permission, or documentation of suitability for a subject activity which have not been decided upon prior to the effective date of this law are considered, depending on their content, to be applications for a concession or a report of controlled small business activities. The appropriate organ of state administration will pass them on to the small business office and shall attach a position paper to applications for a concession which is to serve as a basis for a decision.

(3) Physical persons who have acquired an authorization, a license, or proof of suitability and who, prior to the effective date of this law, had not yet requested registration shall attach these documents to applications for a concession or for purposes of reporting controlled small business activities. In deciding on a concession, these documents replace the position paper of the appropriate organ of state administration.

### Section 76

Small business activities, which, according to special regulations, may be conducted by organizations, may also be conducted by authorized physical persons to the same extent and under identical conditions.

### Section 77

Authorization to engage in entrepreneurial activities and entrepreneurial authorization to engage in activities which are not considered small business activities are not affected by this law, insofar as special regulations do not stipulate otherwise.

### Section 78

#### Insurance for Entrepreneurs

(1) The legal insurance of entrepreneurs according to Section 22 of Law No. 105/1990 Zb. on private entrepreneurial activities by citizens, which came into being prior to the day this law becomes effective, terminates at the expiration of one month from the day this law becomes effective.

(2) An entrepreneur identified in Paragraph 1 is obligated to conclude an insurance agreement in accordance with Section 68 at the latest one month after the effective date of this law.

(3) Legal entities engaged in entrepreneurial activities prior to the day this law becomes effective and which are subject to this law are obligated to conclude an insurance agreement in accordance with Section 68 within 30 days of the date this law becomes effective, if they have not already done so sooner.

### Section 79

#### Liquidation of Property for Reasons of Excessive Indebtedness

(1) An obstacle to the carrying out of small business activities which may have come into being prior to the effective date of Law No. 328/1991 Zb. on bankruptcies and settlements is understood to be liquidation of property for reasons of excessive indebtedness.<sup>47</sup>

(2) Liquidation of property for reasons of excessive indebtedness, which was carried out prior to 1 January 1990, shall be disregarded.

### Section 80

#### Rescinding Provisions

As of the day this law becomes effective, the following laws are rescinded:

1. Law No. 105/1990 Zb. on private entrepreneurial activities by citizens, as amended by Law No. 216/1991 Zb., particularly Section 12a through 12e;

2. Section 2 of Decree No. 100/1945 Zb. by the president of the republic on nationalization of mines and some industrial enterprises, as amended by Law No. 114/1948 Zb. on nationalization of some additional industrial and other enterprises and plants and on modifying some of the relationships between nationalized and national enterprises;

3. Section 4 of Law No. 114/1948 Zb. on nationalization of some additional industrial and other enterprises and plants and on modifying some of the relationships between nationalized and national enterprises;
4. Section 3 of Law No. 115/1948 Zb. on nationalization of additional industrial and other production enterprises and plants in the foodstuffs industry and on modifying some of the relationships between nationalized and national enterprises in this area, as modified by Law No. 108/1950 Zb., which altered and expanded the regulations on nationalization of some enterprises in the foodstuffs industry;
5. Section 3 of Law No. 120/1948 Zb. on nationalization of commercial enterprises with 50 or more active employees;
6. Section 1, Paragraph 2, of Law No. 121/1948 Zb. on nationalization in the construction industry, as amended by Law No. 58/1951 Zb., which alters and changes the law on nationalization in the construction industry;
7. Section 3 of Law No. 123/1948 Zb. on nationalization of polygraphic enterprises;
8. Section 8 of Law No. 124/1948 Zb. on nationalization of some catering and retail beverage establishments and accommodation facilities.

### Section 81

This law becomes effective on 1 January 1992.

### Supplement No. 1

#### Trade-Type Small Business Activities

##### Group 101: Production of Metals and Metal Products

Blacksmithing, locksmithing, production of tools, grinding and polishing of metals, except the sharpening of knives, scissors, and simple tools, metalworking, metal galvanization, casting of ferrous and nonferrous common metals, enameling.

##### Group 102: Production of Machines and Instruments, General in Nature and for Use of Certain Economic Branches

Building of machines with mechanical drives.

##### Group 103: Production of Motor Vehicles and Other Transport Media

Repair of motor vehicles, production and repair of agricultural machinery, repair of chassis.

##### Group 104: Manufacture of Health Products, Precision and Optical Instruments, and Watches

Production of thermometers, bandages, orthopedic footwear, precision mechanical devices, watchmaking.

##### Group 106: Production and Processing of Stone and Earth Products, Ceramics

Cutting and etching of glass, manufacture of cement products and synthetic stone, processing of stone.

##### Group 107: Manufacture of Chemical Products

Production of soap, production of cosmetics.

##### Group 108: Manufacture of Foodstuffs and Beverages

Regular and smoked meat butchery, milling trade, production of beer and malt, manufacture of dairy products.

##### Group 109: Production of Textiles and Clothing

Dyeing of fabrics and yarn.

##### Group 110: Manufacture of Leather, Leather Products (Including Footwear), Manufacture of Rubber Products Made of Plastic Materials

Tanning of hides, finishing of leather, dyeing of leather, furrier's trade and dyeing of furs, vulcanization, operation of tanneries.

##### Group 111: Woodworking, Production of Furniture, Musical Instruments, and Other Products

Cabinetmaking, manufacture of boats and ships, with the exception of nonmotorized sporting vessels, goldsmithing and silverplating, jewelry trade, metal-beating trade.

##### Group 112: Production of Paper and Polygraphic Products

Printing of books, lithography, silk-screen printing, rubber-block printing, chemical printing, stereotype printing, galvanoplastics, offset printing.

##### Group 113: Construction Industry

Masonry, carpentry, tilesetting, roofing, sheet metal work, heat and sound insulation operations, gold leaf application, stucco work, placement of floor materials, plumbing, cleaning of building facades and monuments.

##### Group 114: Other

Optician's trade (practice of five years required in accordance with Section 21, Paragraph 1), barbering, hairdressing, cosmetics, pedicure, chemical cleaning of textiles, operation of small business drugstores.

#### Footnotes

[Footnotes 1-29 not available]

30. Section 14 and 14a of Law No. 227/1859 r.Z., also known as the Small Business Code, as modified by subsequent regulations;

Section 15, Paragraphs 1-5, of Law No. 259/1924 Zb., the small business law applicable to the territory of Slovakia and Subcarpathian Ruthenia;

Section 3, Paragraph 2, of Government Regulation No. 186/1949 Zb. on modifying the training of apprentices;

Section 2, Paragraph 1, of Government Regulation No. 22/1952 Zb. on the new modification of apprentice examinations;

Section 19 of Law No. 89/1958 Zb. on the training of young people for professions under apprenticeship conditions (apprenticeship law);

Decree of the Ministry of Education of the CSR [Czech Socialist Republic] No. 5/1981 Zb. on final examinations for apprentices in apprentice and study disciplines;

Decree of the Ministry of Education of the SSR [Slovak Socialist Republic] No. 16/1981 Zb. on final examinations for apprentices in apprentice and study disciplines;

Decree by the Ministry of Education of the CSR No. 31/1987 Zb. on finishing studies at middle schools and completing training in specialized apprentice training centers;

Decree by the Ministry of Education of the SSR No. 38/1987 Zb. on finishing studies at middle schools and completing training in specialized apprentice training centers;

Section 25 of Proclamation No. 102/1991 Zb. on finishing studies at middle schools and completing training in specialized training centers and other training centers.

31. Section 9, Paragraphs 1 and 2, Section 25, Paragraphs 1 and 7, of Law No. 29/1984 Zb. on the system of basic and middle schools (the education law), as modified by Law No. 171/1990 Zb. and Law No. 522/1990 Zb.

32. Law No. 20/1966 Zb. on caring for the health of people;

Law No. 309/1991 Zb. on protecting the atmosphere against contamination by certain substances (the law on the atmosphere);

Law No. 87/1987 Zb. on veterinary care, as modified by Law No. 239/1991 Zb.;

Law No. 174/1968 Zb. on state oversight over the safety of work;

Law No. 575/1990 Zb. of the CNR [Czech National Council] on measures contained in the system of central state administration organs of the Czech Republic;

Law No. 238/1991 Zb. on waste materials.

33. Section 13, Paragraph 2, of Law No. 526/1990 Zb. on prices.

34. Law No. 505/1990 Zb. on metrology.

35. Amendment to Law No. 20/1966 Zb. on caring for the health of people.

Law No. 87/1987 Zb. on veterinary care, as amended by Law No. 239/1991 Zb.;

Law No. 42/1980 Zb. on economic contacts with foreign countries, as amended by Law No. 102/1988 Zb. and Law No. 113/1990 Zb.;

Law No. 547/1990 Zb. on handling some types of products and technologies and on their control.

36. Section 11 of the Proclamation of the Ministry of Public Health of the CSR No. 91/1984 Zb. on measures against contagious diseases, as modified by Proclamation No. 204/1984 Zb., and Proclamation of the Ministry of Public Health of the SSR No. 103/1984 Zb. on measures against contagious diseases.

37. Amendment of the Proclamation issued by the Ministry of Culture of the CR [Czech Republic] No. 241/1991 Zb. on the exclusive authorization of some organizations representing authors or creative artists.

38. Section 6, Paragraph 1, Letter c), of Law No. 174/1968 Zb. on state specialized oversight over work safety.

39. CSFR Government Regulation No. 258/1990 Zb. on establishing the lowest monthly wage for purposes of the Criminal Code.

40. Section 118 of the Criminal Code.

41. Section 24, Paragraph 1, Letter d), of CNR Law No. 200/1990 Zb. on misdemeanors;

Section 24, Paragraph 1, Letter d), of SNR [Slovak National Council] Law No. 372/1990 Zb. on misdemeanors, as amended by SNR Law No. 524/1990 Zb.

42. Sections 187 through 205b of the Labor Code;

SNR Law No. 24/1991 Zb. on the postal service;

CNR Law No. 185/1991 Zb. on the postal service.

43. Law No. 83/1990 Zb. on the association of citizens, as amended by Law No. 300/1990 Zb.

44. Law No. 29/1984 Zb. on the system of basic and middle schools (the school law), as amended by Law No. 171/1990 Zb. and Law No. 522/1990 Zb.

45. Law No. 71/1967 Zb. on administrative management (Administrative Code).

46. Sections 76 through 85 of Law No. 50/1967 Zb. on territorial planning and the construction code (the construction law), as amended by Law No. 103/1990 Zb.

47. Sections 352 through 354 of the Civil Code No. 99/1963 Zb., as amended by Law No. 36/1967 Zb., Law No. 158/1969 Zb., Law No. 49/1973 Zb., Law No. 20/1975 Zb., Law No. 133/1982 Zb., and Law No. 180/1990 Zb.

**Amendments to Law on Administration of Courts**

*92P20206B Budapest MAGYAR KOZLONY  
in Hungarian No 131, 29 Nov 91 pp 2,656-2,663*

[Summary] Budapest MAGYAR KOZLONY in Hungarian No. 131, 29 Nov 91 pp 2,656-2,663 carries the full text of Law No. 67 of 1991 amending Law No. 4 of 1972 concerning the judiciary. The amendments were adopted by the National Assembly at its 11 November 1991 session.

Presented in the form of substitutes and supplements, the amendments pertain to the composition, functioning, and the financial and personnel management of local and county courts, to so-called judicial colleges, labor affairs courts, and the Supreme Court, as well as to the personal qualifications and appointment of, disciplinary action against, and severance pay for members of the judiciary.

Accordingly, the full, revised text of the 1972 law cannot be seen from the amendments, but it is evident that Paragraphs 4, 9, 10, and 11 of the amendments bear on the independence of the judiciary.

[Background: A Constitutional Court decision announced on 31 October 1991 refused to declare unconstitutional the provisions of Paragraph 51, section (2), subsections (a) and (b) of the 1972 law cited above, which state that "the minister of justice—without violating the independence of the judiciary—shall (a) provide for the personal and financial conditions needed for the functioning of the judiciary; (b) direct the administrative activities of court chairmen and shall regulate the management of courts." Two Constitutional Court justices dissented, claiming that the quoted provisions of the 1972 law could not be reconciled with the constitutional principle of an independent judiciary. Arguments supportive of the majority opinion asserted that the involvement of the minister of justice was purely administrative and that it amounted to one of the "checks and balances" between the executive and the judicial branches of government. The present amendments let stand the challenged provisions, but replaced or added related provisions as follows:]

Paragraph 4 of the amendments replaces and supplements the provisions of Paragraph 21 of the 1972 law by stating that county court chairman exercise "administrative supervision" over local courts and labor affairs courts within their jurisdiction, and details the elements of such supervision which must be performed "without impinging upon the independence of judges."

Paragraph 9 of the amendments adds a new section (3) to Paragraph 51 of the 1972 law and retains the old section (3) as section (4): "Section (3) The budget of the judiciary, and within that, the wages and salaries of court workers shall be segregated within the Ministry of Justice chapter of the budget."

Paragraph 10 of the present amendments adds new paragraphs 51/A through 51/C to the existing text of the

1972 law, all of which appear as endeavors to secure judicial independence while overall administrative control remains with the minister of justice. Thus, new Paragraph 51/A entitled "Judicial Bodies" establishes certain judicial organizations which "participate in the administration" of courts. These are: (a) the conference of all judges within a given county; (b) the [judicial] colleges; (c) the council of county (Capital) judges; and (d) the National Council of Judges. The integrity of these bodies is ensured by the democratic election of their members; such elections are tied to two-thirds majority requirements where appropriate.

The conferences of all county judges ensure in each county the proper operation of courts, but must also be convened at the initiative of the minister of justice.

Judicial colleges are composed of judges specializing in identical fields of adjudication. Their function is to ensure uniform adjudication in given fields of law throughout the country. This definition appears in Paragraph 3 of the amendments.

The councils of county (Capital) judges are composed of judges elected by all judges within a county (the Capital). The "concurrence" of these bodies is required to the annual budget request of local courts operating within a given county, to the distribution of funds appropriated to county courts among the local courts and to the distribution of wage increases and increased personnel among local courts.

The National Council of Judges is composed of judges elected from the various counties and the Capital for fixed terms. The "concurrence" of this body is required to the annual budget request of courts, to the distribution of funds appropriated to the court system among the county courts and to the distribution of wage increases and increased personnel among county courts. The National Council of Judges also has a right to comment on all legislation affecting courts and judges.

Paragraph 11 of the amendments changes the existing Paragraph 53 provisions of the 1972 law to the effect that the "minister of justice shall submit recommendations for the appointment of judges with the concurrence of the chairmen of county courts and the [relevant] county [Capital] council of judges." [Paragraph 48 section (2) of the prevailing Constitution provides that "Professional judges shall be appointed by the president of the republic in a manner specified by law."] Another amendment supplements the existing text of Paragraph 53 of the 1972 law by adding a new section (3) as follows: "The chairman of the Supreme Court jointly with the minister of justice shall submit recommendations for the appointment of Supreme Court justices; the minister of justice jointly with the minister of defense shall submit recommendations for the appointment of military judges." [The above-cited constitutional provision also applies to the appointment of Supreme Court justices and military judges.]

**Constitutional Court Decision on Judiciary**

*92P20101A Budapest MAGYAR KOZLONY  
in Hungarian No 120, 31 Oct 91 pp 2,406-2,408*

[Summary] Budapest MAGYAR KOZLONY in Hungarian No. 120, 31 Oct 91 pp 2,406-2,408 carries the full text of Constitutional Court Decision No. 53/1991 (31 October), which rejects a petition seeking judicial review of Paragraph 51 section (2) subsections (a) and (b) of Law No. 4 of 1972 concerning the judiciary, and proposing to declare these provisions as repugnant to the Constitution:

"Proposer regards as unconstitutional a function of the minister of justice defined in the law concerning the judiciary, according to which 'the minister of justice—without violating the independence of the judiciary—shall

- "(a) Provide for the personal and financial conditions needed for the functioning of the judiciary; [and shall]
- "(b) Direct the administrative activities of court chairmen and shall regulate the management of courts.'

"In the proposer's view the Constitution undoubtedly treats the judiciary as an independent branch of power; therefore, courts must not be regarded as part of the state administration, and therefore the minister of justice, who heads one of the branches of state administration, cannot have constitutional authority over the judiciary. The proposer also points out that pursuant to Paragraph 37 section (2) of the Constitution, ministers are authorized to direct only 'the organs under their authority,' while courts are not organs subordinate to the minister of justice."

In its majority opinion the court declared that the proposal lacked foundations and based its arguments on the following precepts: (1) The independence of the judiciary manifests itself predominantly in the course of adjudication; (2) The independence of judicial power implicit in the principle of separation of powers is limited by the principle of mutual checks and balances, and the provision of the 1972 law subject to challenge constitutes a check on behalf of the executive power over the judicial power; (3) The proposal presents the issue in general terms, thus the decision responds to the wording of the petition; the court recognizes the possibility of alternative arrangements in this regard, but providing for such arrangements is within the authority of the National Assembly, and not of the Constitutional Court.

In their dissent Justices Dr. Antal Adam and Imre Voros argued that the independence of the judiciary is a paramount constitutional principle, which means that the judiciary must be free of any influence. This, in turn, has implications relative to the appointment of judges, the professional character of adjudication, the facts that in the course of performing their functions judges interact only with judicial organizations, that the removal of

judges and their criminal liability is circumscribed by law, that judges are subordinate only to laws and that judges must not be members of political parties and must not pursue political activities. Under the 1972 law the authority of the Ministry of Justice also extended to cover the observation of the adjudicative activities of courts and to the analysis and evaluation of adjudicative practice. "This perception—i.e., the intertwining of administration and general operations—was based on the concept of unified state power, one that did not even recognize the relative independence of the various branches of power." As a first step, Law No. 42 of 1989 has already discontinued the minister of justice's authority relative to the professional activities of courts. At that time it has already been said that the ultimate solution for the full enforcement of the principle of an independent judiciary requires the development of a fully autonomous court structure.

The requirement that the Minister of Justice establish the material conditions for judiciary operations is not necessarily unconstitutional. The concern expressed in the dissenting opinion applies in particular to state administrative involvement in establishing personal conditions, because the related provision of the 1972 law permits heavy interference by the executive power in the activities of the judiciary. Such interference is not checked by constitutional guarantees, and is subject only to possible self-restraint manifested by the executive power. For this reason, the dissenting justices find that the provisions of Paragraph 51 section (2) subsection (a) as those relate to the establishment of personal conditions, and the authority granted to the minister of justice in subsection (b) violate the constitutional principle of an independent judiciary and that therefore these provisions are unconstitutional.

**Resolution on Guidelines for Social Security**

*92CH0253A Budapest MAGYAR KOZLONY  
Hungarian No 116, 19 Oct 91 pp 2,363-2,365*

[National Assembly Resolution No. 60 of 29 Oct 1991 concerning the renewal and short-term tasks of social security, adopted by the National Assembly at its 15 October session]

[Text] The National Assembly has considered the proposal to renew the social security system and has resolved the following:

1. The National Assembly finds that the present system of social security is characterized by a number of tensions and contradictions; despite the relatively high contributions paid it is unable to provide benefits which maintain their value. The financial situation of the Social Security Fund is unstable, it does not possess appropriate reserves or assets of its own, benefits have not been annuitized and the system also finances services which, by virtue of their character, are not consistent with the principles of insurance. Health care financing under social security also exists only as a matter of formality. In due regard to social policy and

economic considerations, one cannot delay the modernizing of the social security system either.

2. The National Assembly agrees that as in the past, the future, most comprehensive system of social welfare should be a mandatory social security system which is guaranteed by the state and which covers the populace on the broadest possible scale, one that provides social care for members of society jointly and in harmony with other state social service delivery systems and with unemployment insurance. The direction of the institution of social security, its relationship to governmental organs, and with organs included in the state budget and financed by social security, should be defined by law as soon as possible.

3. In renewing the social security system the tasks that comprise the mandatory insurance system should be clearly defined. Certain independent branches of insurance must be created from these based on peculiar risk factors; social welfare support payments must be severed and segregated from social security financing, and a system providing financial coverage for this segregated branch must be established. The kinds of entitlements and services social security is mandated to establish and provide in exchange for mandatory social security contributions must also be made clear to persons who contribute to social security. To ensure that in the future the principles of insurance and solidarity prevail in mutual harmony, the social security elements based on the principle of solidarity must be clarified, and further, the role and functions of the state budget in the social welfare system, and the benefits provided on the basis of individual merit must be defined.

4. In the future, segregated insurance systems within the social security system should be financed mostly from current revenues, and parts of contributions allocated to each type of insurance should continue to remain the chief sources of finance. Partial financing by the state budget is necessary. Such financing should be provided in the forms of both direct (standard) and indirect support, the granting of assets and a general guarantee provided by the state. Mandatory social security reserves must be replenished as a result of transferring property free of charge to social security in the course of privatizing state property. The extent to which contributions are required may be reduced, depending on the return produced by budget support and the transfer of assets.

5. In order to increase the long-term stability of social security and to encourage population growth the following numbers of years should be credited as work years to mothers with children: one year after one child, an additional year after two children, six years after three children, an additional year each for the fourth and fifth child, totaling eight years.

6. The following principles should be enforced in the course of modernizing the pension system:

Under social market economy conditions the long term goal should be the achievement of a so-called three-tier pension system.

The base level welfare of the aged should be secured by a national basic pension system providing uniform amounts of benefit.

The second tier of the pension system should provide benefits based on income earned during the active period of life and the amount of contributions made. The mandatory contribution paid on a shared basis by the insured and his employer should be limited from the top down, and the maximum amount of pension should be adjusted to the insured income limit. This system should operate on the basis of individual records throughout the entire period in which contributions are made, and the base contributions for individual years should be valorized. Pension payments should increase each year in proportion to the increased income earned by active persons. Pension insurance could be administered either under a centrally organized and unified structure, or decentralized and varied per occupational branch or trade.

The third tier would consist of pension payments based on supplemental insurance subscribed to on a voluntary basis.

Considering the need to finance existing pensions, the ability of the state to assume a financial burden, the need to protect the interests of age groups about to retire and the fact that due to low income levels possibilities for widespread supplemental insurance are limited, the mandatory income limit after which contributions are to be made should be established at a relatively high level during the transition period. Within mandatory pension programs the insurance principle—the role played by contributions and the length of active service—must be strengthened.

The introduction of a national basic pension will be possible only in the distant future, once we have achieved a high level of economic development. Even until then, however, a minimum guaranteed income that equals the annually determined minimum pension level must be provided to the aged. This means that persons presently entitled to receive pensions which do not reach this minimum level of pensions must be provided supplemental pension payments. From the standpoint of future retirees, the pension supplement must be financed from contributions and not from the state budget. Persons not entitled to receive pension payments will receive old-age support based on their individual rights, pursuant to conditions established in the social welfare law. Support payments of this kind should be provided from budgeted state funds.

The second tier of the pension system should be based on the insurance principle and should be developed gradually. The following changes will be necessary during the transition period to accomplish this:

- The upper income limit subject to mandatory contributions should be established at a relatively high level, and should be reduced gradually thereafter in order to narrow the mandatory scope of insurance and to encourage voluntary insurance.
- The time period for calculating pension benefits should be gradually increased and the increases should be indexed based on average earnings during previous years.
- The number of years in which no contributions were made should not be counted from the standpoint of vesting, i.e., pensions payments should be based on contributions made.
- A linear pension scale should be established and the degressive consideration of earnings must be gradually discontinued.
- Measures which influence entitlements to receive pension, and the amounts of pension to be paid that are more favorable than the conditions established as a result of work performance and the general entitlement should be applied only in a manner consistent with insurance principles.
- The basic principle insofar as preserving the worth of pensions is concerned should be the maintenance of the ratio between pensions and the average net earning of the active populace.

Pensions that have already been established should not be recalculated on the basis of the newly introduced rules. Adjustments should be made on a case-by-case basis for losses in the worth of pensions that have occurred earlier and as a result of distorted ratios.

7. In order to establish a financially secure pension system, to guarantee the worth of pensions and to make gradual adjustments to compensate for the reduced real worth of pensions received by persons who have retired earlier, one cannot avoid increasing the retirement age. Beginning in 1993 the gradual increase in the retirement age of women must begin, and starting with the millennium the general and uniform retirement age should be fixed at 62. Flexible rules should be established for choosing the actual time of retirement. Incentives may be provided for continuing work; early retirement should be made possible for those who have served for a long period of time. The system of benefits based on age which may be granted on the basis of occupational considerations should be reviewed.

Contributions must not be reduced prior to reaching the retirement age; thereafter, reductions in contributions may be made only if the replenishment of the retirement reserve fund is accomplished soon as a result of the free of charge allocation of assets. Mandatory reserve requirements and the ratio between the mandatory reserve and the total annual amount of pension payments should be established by law.

#### 8. Measures recommended beginning on 1 January 1992:

- An upper limit for individual contributions to mandatory insurance must be established.
- The period for calculating the pension fund must be extended by one year, and the fourth year must be valorized.
- Important issues which determine the pension system—obligation to contribute, conditions for receiving pension benefits, the extent of benefits, methods of preserving the worth of pensions—must be provided for by law.
- Beginning on 1 January 1992 an increase in pensions identical to the increase in net average income must be provided.

9. Tasks to be developed during the first half of 1992 and things to be accomplished in order to establish foundations for further changes are as follows:

- The unification of age limits between genders and a further increase in the age limit must be proclaimed categorically, per age group.
- The expected impact of all essential changes in pension payments must be scheduled in advance with the help of a well functioning mathematical model.
- The function of state property provided free of charge to new pension systems must be clarified, together with profits to be derived, utilization, size and composition per categories of assets of such property.
- The employment policy requirements of changing retirement age limits must be reviewed and a proposal must be written for the management of the ripple effects of such change on employment policy.
- A proposal must be developed regarding the pace at which the base period should be extended.
- A system to maintain individual social security contribution records must be established.
- New, detailed rules for determining and paying pensions must be streamlined with rules governing personal income taxation, from the standpoint of both the payment of contributions and the taxation of benefits.
- The contradictory rules of widows' and handicapped persons' provisions must be corrected.
- Rules governing the overall conditions for the operation and supervision of pension disbursement offices must be established.
- The relationship between raising the retirement age on the one hand, and employment tensions on the other requires a thorough examination. An in-depth examination of this issue should be of interest from the standpoint of the balance of both the employment fund and the pension fund, and should help in developing and implementing employment programs. The

autonomous social security governing body must be authorized to control this research activity and these programs.

10. Medical therapeutic and preventative service provisions must be based on insurance principles along with an obligation to contribute premiums established by law for health insurance purposes.

The following considerations must prevail in developing the health insurance system:

- (a) Mandatory health care services must be defined so as to contain service provisions presently delivered as a matter of citizen right, but not including certain exceptional provisions. Additional services should be provided on the basis of supplemental health insurance programs subject to voluntary subscription and an opportunity should also be provided for individual payments for services.
- (b) The obligation of retired persons and the unemployed to make contributions for health insurance purposes should be settled on the basis of the solidarity principle. State budget funds should be used to pay for health care services received by persons with earnings below a certain minimum income and those not insured.
- (c) Services delivered on the basis of insurance would be purchased from health care facilities in the several—state, local government, church and private—sectors by the insurance institution in a contractual framework based on services provided, in due regard to, and while exercising control over the prescribed mandatory medical professional considerations.
- (d) The system which provides cash payments in the framework of health insurance should be modernized so as to stimulate occupational and medical rehabilitation and to also provide an incentive to distribute risks by providing incentives for the improvement of occupational health conditions.

11. The National Assembly finds that it is necessary to begin the development of the new health care system in 1992, based on the considerations spelled out under 10. above. Beginning next year, health care services should be provided under an insurance-based legal relationship; adult and pediatric district medical services should be financed on the basis of performance and of uniform medical professional criteria. State health care functions and tasks, and service provisions under health insurance must be defined clearly. As much as possible, patients should be able to choose their own physicians under the mandatory health insurance program.

Certain costly systems of social security which do not function well (e.g., sick pay, disability classification and the financing of pharmaceuticals) should be reviewed. Modernizing efforts must be targeted and should aim for thrifty operations. Conditions for the introduction of a sick leave system must be examined.

12. The National Assembly requests the Cabinet to develop a legislative proposal concerning the 1992 social security budget based on segregated insurance funds while observing the following requirements:

- (a) In 1992 the pension insurance system should be separated from the health insurance system. Within the health insurance system services rendered under accident insurance should temporarily be treated separately, until such time that all conditions for a separate accident insurance system exist. The resources for the two separate insurance systems and the amount of contributions to be made should be determined.
- (b) It would be appropriate to include old age pension, disability benefits to be paid to persons who have reached retirement age, and benefits to be provided to dependents (widows, orphans) as part of the pension insurance system.
- (c) Sick pay, maternity aid, disability pension payments made prior to retirement age, accident insurance benefits, and therapeutic and preventative medical service provisions, including subsidies to be provided for the purchase of pharmaceuticals, medical accessories, and other medical services should be made part of the health insurance system.
- (d) Based on the contributions to be paid into one's chosen system, a pension system budget covering the years until the millennium and a health care system budget for the next three years should be presented.

13. Social welfare functions and the financing of social welfare functions not included in the insurance systems should be gradually assumed by the state budget. In 1992, service provisions of this nature which have not been transferred under the state budget should be made part of a separate budget within the Social Security Fund.

14. The National Assembly requests the Cabinet to develop legislative proposals that are necessary for the transformation of the social security system as well as constitutional provisions related to social security reform, and to submit the same to the National Assembly by the end of November 1991. The legislative proposals must be streamlined with the new health care law, the social welfare law and the law governing the board of physicians and pharmacists.

[signed] Gyorgy Szabad, president of the National Assembly

#### Law on State Preferences Deemed Unconstitutional

92P20106A Budapest MAGYAR KOZLONY  
in Hungarian No 127, 19 Nov 91 pp 2,256-2,257

[Summary] Budapest MAGYAR KOZLONY No. 127, 19 Nov 91 pp 2,556-2,557 carries the full text of Constitutional Court Decision No. 59. of 19 November 1991

voiding with an immediate effect three provisions of the 1988 Law on Business Organizations (Law No. 6 of 1988).

The challenged provisions accorded preferential treatment to the state and to financial institutions over stockholders as follows:

(1) State organs and financial institutions could not be refused the sale of stock even if the stock had been oversubscribed.

(2) Even if the state and financial institutions owned only one-third, but less than 51 percent of the outstanding common stock, the votes cast by the state or financial institutions as stockholders would count as the majority of votes cast.

(3) State organs and financial institutions had priority in exercising pre-purchase rights over both stockholders and bondholders in the course of increasing a firm's capital stock.

The court found that constitutional provisions now in force guaranteeing the equality of private and public property no longer warranted the distinctions made in the 1988 law and constituted discrimination. Therefore the court ordered that the privileged situation of the state and of financial institutions be discontinued.

#### **Constitutional Rights of Military Personnel**

*92P20093A Budapest MAGYAR KOZLONY  
in Hungarian No 116, 19 Oct 91 pp 2,304-2,308*

[Summary] Budapest MAGYAR KOZLONY in Hungarian No. 116 on 19 October on pages 2,304-2,308 carries the full text of Constitutional Court Decision No. 51 of 19 October 1991, which struck down Ministry of Defense decrees promulgated in 1987 and 1989 based on the 1976 National Defense Law:

- (a) Prohibiting military personnel to form political or other social organizations at the place of duty;
- (b) Permitting military personnel to participate in such organizations outside of their place of duty subject to permission by their superiors, provided that such participation was not related to the military duty performed and further, provided that such participation did not involve a critique of the military service;
- (c) Prohibiting military personnel from acting as political or military experts on behalf of any social organization;
- (d) Prohibiting military personnel from appearing in uniform or creating the appearance of conveying official military views without prior authorization;
- (e) Prohibiting military commanders from entering into negotiations relative to matters described in (a)-(d) above with social organizations.

Further, the court rejected arguments seeking a declaration of the unconstitutionality of provisions which prohibited military personnel from filing a certain category of complaints. The prohibition pertains in part to complaints filed by groups, on behalf of other persons, by way of a delegation, or while in formation, on guard or on duty, and on the basis of mutual agreement, and, in part, to certain types of complaints, notably, against decisions made by the minister of defense, determinations which have no final effect and which are subject to judicial review, and against offenses which have taken place more than a year before or against commanding officers' decisions concerning complaints which have already been reviewed.

Petitioners contended that the Constitution established the free expression of opinion, the right to redress and the organizing of interest representation as fundamental rights, and that the above cited provisions were unconstitutional both in form and in content. The court held that in regard to the prohibitions both the Constitution and the International Agreement on Civil and Political Rights spoke clearly in favor of petitioners' contention, but in regard to provisions restricting complaints the preponderance of evidence favored the Ministry of Defense.

An issue presented concerning the exercise of the appointing authority of the Council of Ministers regarding the commander of the Hungarian People's Army and the chief of staff of the Hungarian Peoples' Army was declared moot by the court.

Dissenting opinions filed by four justices focused on that part of the filing of complaints issue which prohibited the filing of joint complaints, and the filing of complaints on behalf of others and by way of delegation which the majority opinion of the court had upheld as constitutional.

#### **Law on 1992 State Budget**

*92CH0269A Budapest UJ MAGYARORSZAG  
in Hungarian 2, 3, 4, 6, 7 Jan 92*

[“Text” of Law No. 91 of 1991 Concerning the 1992 Budget of the Hungarian Republic and Rules for Managing the State Household adopted by the National Assembly at its 31 December 1991 session—first paragraph is UJ MAGYARORSZAG introduction]

[2 Jan p 6]

[Text] They began printing MAGYAR KOZLONY a few hours after the National Assembly adopted next year's budget on Tuesday afternoon, including the full text of the newly approved law. UJ MAGYARORSZAG is publishing the entire text of the law, but without its appendices. (No. 150 of the official gazette also goes on sale today.)

Economic restructuring, reduced inflation, and the mitigation of employment and social welfare concerns

which accompany the building of a market economy are the focal points of 1992 economic policy. In order to establish long-term foundations for economic growth, the role played by the budget in regrouping income must be gradually reduced so that internal expenditure ratios simultaneously adjust themselves to social and economic requirements.

In due regard to the need to effectively manage and control public funds, the National Assembly creates the following law concerning the 1992 budget of the Hungarian Republic (hereinafter: central budget), and certain temporary rules in conjunction with the implementation of the central budget:

#### Part 1. The 1992 Budget of the Hungarian Republic

##### Chapter I. The Overall Amount of Expenditures and Revenues Specified in the State Budget; The Extent of Deficit and the Method of Deficit Financing

###### Paragraph 1.

(1) The National Assembly determines that the total amount of central budget expenditures shall be 1,050,741.6 million forints.

(2) The distribution of the total amount of expenditures established in Section (1) is detailed per chapter, title, and special purpose allocation in Appendix 1.

###### Paragraph 2.

(1) The National Assembly determines that the total amount of revenues to cover the expenditures approved in Paragraph 1. shall be 980,962.0 million forints.

(2) The sources for the total amount of revenues established in Section (1) is detailed per chapter, title and special purpose in Appendix 2.

###### Paragraph 3.

The difference between the total amount of expenditures approved in Paragraph 1. and the total revenues approved in Paragraph 2. represents the amount of the central budget deficit (hereinafter: deficit) and amounts to 69,779.6 million forints.

###### Paragraph 4.

The National Assembly authorizes the finance minister to finance the deficit established in Paragraph 3. as follows:

(a) By issuing special securities with long-term—at least 10 year maturity in an amount not exceeding 30,000 million forints. The 1992 interest rate to be paid on such securities shall be the same as the basic interest rate established by the central bank. These state securities shall be purchased by the Hungarian National Bank [MNB]. The expiration of these securities shall be determined on the basis of an agreement to be reached between the finance minister and the president of the MNB;

- (b) By issuing new state bonds amounting to 30,000 million forints maturing over a period of more than one year;
- (c) By increasing the total amount of outstanding treasury certificates and other securities issued by the state maturing in less than one year by at least 9,779.6 million forints.

#### Chapter II. The Relationship Between the Central Budget and the State Household

##### Rules Governing the Relationship Between Autonomous Local Governmental Bodies and the Central Budget

[Translator's note: in order to avoid excessive verbalizing, references in the original to "autonomous governmental bodies" ("onkormányzatok") sometimes supplemented by the terms "local," "county," "city," or "in settlements," depending on the level or levels of government at issue, have been abbreviated and standardized in this translation as follows: "Municipal government" means county, city, and town autonomous governmental bodies jointly, i.e. all units of government that have no sovereignty, but are autonomous under Hungarian law. "County government" means autonomous county governmental bodies. "Local government" means city and town autonomous local governmental bodies. The distinctions are vague particularly in Paragraphs 6.-9. The translation echoes the original where freestanding references to "settlements," "towns," "large towns," etc., were used. In addition, as used in this translation, the term "autonomous city" means cities—except Budapest—within counties which "are empowered to exercise the authority of counties," i.e., are independent from counties.]

#### State Contribution and Support

###### Paragraph 5.

(1) The National Assembly determines the amounts of standard state contribution that may be used directly by municipal governments that perform various functions without utilization cost [as published] as follows:

	Forints
(a) General contribution for towns and large towns having independent administrative authority as of 1 January 1992	2,000,000
(b) To cover the operating costs of settlements as well as communal, road and bridge maintenance and renewal, and other expenditures, per permanent resident as of 1 January 1991	3,000
(c) For housing management	
Per loan account, after existing loan obligations within the jurisdiction of a given local government	5,000
Per permanent resident between the ages of 20 and 30 as of 1 January 1991	3,380
(d) For resort area functions, per each forint collected in the form of foreign tourism tax and resort fees from guests in 1992	2

	Forints
(e) For the performance of social policy tasks, per person after each permanent resident of the settlement between the ages of 0-17 years and 60 years or older as of 1 January 1991	3,500
(f) For the protection of children and youth, per person, based on the number of persons under the care of the state	233,000
(g) For social welfare centers and institutions, per person provided for	174,000
(h) For institutional day care provided for the aged and the handicapped, per person provided for	28,000
(i) For institutional housing provided for the aged and handicapped, per person provided for	80,000
(j) For children's health care centers and therapeutic educational institutions, per person provided for	201,000
(k) For nurseries, per child	19,000
(l) For nationality or ethnic nurseries, per child (supplemental contribution)	5,000
(m) After each daytime student, or three elementary level, evening correspondence school students, and after three students between the ages of 14 and 16 who have completed elementary education	36,000
(n) For local cultural tasks, per permanent resident as of 1 January 1991	200
(o) After each student studying basic arts, or being trained in independent music schools or their extensions	21,000
(p) For the education of mentally retarded children, per child	65,000
(q) For the gymnasium education of students per student, or per three students if enrolled in evening, correspondence classes	51,000
(r) For each student enrolled in specialized high schools or specialized schools, or for three students receiving their training in evening, correspondence classes	63,000
(s) For theoretical studies in the framework of specialized worker training, per student	39,000
(t) For training workshop studies in the framework of specialized worker training, per student	37,000
(u) For nationality, ethnic or bilingual education, supplemental contribution per elementary or intermediate school student, or per three students if enrolled in evening, correspondence classes	15,000
(v) For dormitory provisions or students residing outside of school facilities, per student	62,000
(z) For regional (county, Budapest) tasks, per permanent resident in the county (including autonomous cities) or Budapest	400

(2) Detailed rules for obtaining the standard state contributions defined in Section (1) above, and the task indexes and index figures on the basis of which these contributions may be claimed are described in Appendix 3.

(3) Details per municipal government and per type of contribution based on planned task indexes and index

figures of the standard state contribution provided for in Section (1) are described in Appendix 4. (Note: Appendix 4. appears in a special issue of MAGYAR KOZLONY.)

(4) Financial institutions shall present data concerning the per settlement distribution of housing loan accounts to the Finance Ministry by 28 February 1992. The National Assembly authorizes the finance minister to determine on the basis of such data the amount of state contribution to be provided to each local government pursuant to the first item of Paragraph 5. Section (1) Subsection (c) and to proclaim the same by decree no later than 30 days after receipt of such data. The amount of personal income taxes to which [presently] joint local governments scheduled to be divided into separate local governments (Appendix 4.) as of 1 January 1992, and the amount of supplemental personal income taxes shares due to the affected local governments shall be determined on the basis of data provided by the State Census Bureau and the Tax and Financial Control Office [hereinafter: APEH] by 31 March 1992. Disbursement of the newly established amounts shall begin in the second quarter of 1992. The affected local governments may elect to calculate their respective shares of personal income taxes to which they are entitled after dissolving joint settlements and becoming separate settlements, based on mutual agreements within the limits of the original personal income tax share allocated for the joint local government in Appendix 4. The personal income tax share of local governments [in towns] becoming cities in the course of the year shall not change during the year.

(5) The standard state contribution provided to a municipal government pursuant Appendix 4. and supplemental contributions pursuant to Section (4) may be changed in the course of the year if the municipal government transfers the a function or an institution to a body that does not constitute a municipal government, provided that such body is legally eligible to receive budgetary support.

(6) The designated and targeted support to be provided to a municipal government pursuant to law may be changed in the course of the year if the municipal government discontinues performing the designated or targeted function and further, if the development project is complete, or if the designee utilizes only part of the amount of targeted support. The Ministry of Interior shall be informed immediately of such change through the Regional State Household Administrative and Information Services [TAKISZ].

(7) In the event that based on data provided pursuant to Sections (4)-(6) the amount of contribution differs from the amount allocated in Chapter VIII. Ministry of Interior, Title 25. Subtitles 1. and 3., the difference shall decrease or increase the centrally allocated amount under Title 25, Subtitle 5.

**Paragraph 6.**

Municipal governments maintaining independent theaters (stone theaters [as published], open air stages, puppet theaters) shall be entitled to state support subject to designated use purposes, pursuant to details provided in Appendix 5.

**Paragraph 7.**

(1) The sum of 26,640 million forints in the form of designated and targeted support is available for the performance of particularly important local governmental tasks. Separate law provides for the utilization of this fund.

(2) A segregated reserve fund of 1,500 million forints shall be established to support the development, expansion and renewal of basic and mid-level colleges and for the construction of gymnasiums in high schools. Municipal governments may submit their requests for support to TAKISZ prior to 28 February 1992 regarding these two purposes. The government shall submit a legislative proposal in this regard to the National Assembly by 30 April 1992.

**Paragraph 8.**

(1) Local governments may use 11,464 million forints from the centrally allocated amounts for purposes enumerated in Appendix 6., subject to conditions described in the Appendix and with an obligation to expend these funds for the designated purpose. The government shall report to the National Assembly in the form of a final accounting concerning the use of this allocation.

(2) Of the allocation mentioned in Section (1), 3,000 million forints shall be used to supplement funds for basic residential services in places where municipal governments are unable to support such operations of no fault of their own. Conditions for supplemental support funds will be approved by the National Assembly and the government shall submit a related legislative proposal by 15 February 1992. A reserve fund shall be established from the amount provided for support; this fund shall also be used to reimburse municipal governments without financial resources for expenditures incurred as a result of extraordinary, unexpected events in the course of the year not covered by insurance. Utilization of this fund shall be determined by the government pursuant to the related, already approved law and based on the joint recommendation of the finance minister and the minister of the interior.

**Paragraph 9.**

(1) After the end of the fiscal year, municipal governments shall account for [the use of] standard state contributions and designated and targeted support funds based on actual indexes pursuant to the requirements of the budget law.

(2) Municipal governments shall refund amounts to which the central budget is entitled within 15 days after they submitted their annual budget reports to TAKISZ.

(3) The finance minister shall pay to municipal governments any supplemental state contributions and support funds due within 15 days after they submitted their annual budget reports to TAKISZ.

(4) If municipal governments exceed by more than 5 percent the sum of Paragraph 5. state contribution amounts linked to specific task indexes they are actually entitled to, they shall pay interest on the excess amount determined on the basis of Section (2) by the deadline specified in Section (2). Interest shall be calculated at double the amount of the average annual basic central bank interest rate.

(5) If the contribution provided from the central budget amounts to at least 5 percent less than the sum to which the individual local government is entitled to pursuant to Appendix 4., the central budget shall pay interest as defined in Section (4) by the deadline established in Section (2).

(6) In the event that a municipal government utilizes designated and targeted support funds for purposes other than those designated or targeted, or if a municipal government utilizes support funds on the basis of different ratios than those specified by law, it shall refund the support fund to the central budget during the year or, at the latest, by the deadline specified in Section (2) and shall pay interest specified in Section (4) after such funds.

(7) The interest amounts specified in Sections (4)-(6) shall constitute Miscellaneous revenues (Title 29. Subtitle 1.) or Miscellaneous expenditures (Title 23. Subtitle 1.) of Chapter XVII. Finance Ministry, as the case may be.

(8) Regional TAKISZ offices shall comment on the state contribution and support fund needs of municipal governments from a professional financial standpoint. With respect to designated and targeted support funds they shall analyze the extent to which municipal government commitments to use their own funds are realistic and shall verify that municipal governments have used their own resources and have completed their tasks before receiving central support payments.

**Assigned, Shared Revenues**

**Paragraph 10.**

(1) Local governments are entitled to receive 50 percent of personal income taxes due after income reported by the permanent residents of the settlement for the year 1990, and as reported for the given settlement by APEH.

(2) Local governments whose per capita revenues derived from revenue sharing described in Section (1) based on the number of permanent residents as of 1 January 1990 amounts to less than 4,300 forints, shall be

entitled to receive supplemental funds from the central budget, increasing the amount of revenues shared on this basis to the 4,300 forints per person level. Beyond these amounts, the central budget shall supplement the amount of personal income taxes assigned to city governments, including the governments of municipalities which become cities as of 1 January 1992, by 25 million forints, but in no event by more than 6,000 forints per person. Municipalities which become cities in the course of the year shall not be eligible to receive such supplement.

(3) Details per local government for supplemental payments specified in Section (2) are contained in Appendix 4.

#### Paragraph 11.

(1) Local governments shall be entitled to receive 50 percent of the motor vehicle tax revenues levied on domestic motor vehicles.

(2) 700 million forints of the other 50 percent of taxes levied on domestic motor vehicles to which the central budget is entitled shall be allocated to the highway fund.

(3) 600 million forints of centrally collected taxes based on the mass [as published] of foreign cars shall be allocated to the Environmental Protection Fund.

#### Paragraph 12.

(1) 50 percent of revenues derived from the sale of a council enterprise by the State Property Agency [AVU] when municipal governments are formed and exercise their founders rights shall be paid to the local government exercising the founder's rights. If the founder's right is exercised by a county government, it shall receive 20 percent of the 1992 sales revenues.

#### Paragraph 13.

Thirty percent of environmental and historical site protection fines assessed and collected by local governments operating in settlements shall constitute revenues of the local government having jurisdiction in the area where the fines were assessed.

#### Regulation of Fees and Dues Collected by Local Governments

#### Paragraph 14.

(1) Pursuant to the law on fees, fees collected by county collection agencies shall constitute revenues for the city located within the jurisdiction of the county collection agency; fees collected in conjunction with cases under the jurisdiction of non county seat autonomous cities shall constitute revenues for non county seat local city governments—the city government of Cegled in Pest County—or for non county seat autonomous cities.

(2) Fees collected by the Budapest Fees Collection Office shall constitute revenues for the Budapest Local Government.

(3) Of the amount collected by county collection offices pursuant to Section (1), as offset by expenditures enumerated in Section (4)

(a) Thirty percent shall constitute direct revenues for the county government; [and]

(b) Seventy percent shall be distributed in equal amounts among all county governments.

(4) County governments and non county seat autonomous city government maintaining collection offices shall reach agreements among themselves concerning the allocation of expenditures incurred as a result of collecting fees and dues within the county, and in non county seat autonomous cities. The agreement must designate the types and amounts of expenditures and the method of accounting and control.

(5) Cities which are county seats, and in Pest County the City of Cegled shall withhold 1/12th of the agreed upon expenses from the fees collected to cover the cost of operating the county collection offices. The amounts withheld shall be accounted for as fees revenues.

#### Revenues of the Local Governmental Bodies in Budapest

#### Paragraph 15.

(1) The provisions of Paragraphs 17.-19. of Law No. 24. of 1991 shall apply in regard to the distribution of revenues between the Budapest local government and the various local governments of the administrative districts of Budapest.

(2) As long as the Budapest General Assembly has not provided for the distribution of resources among the local governmental bodies, the Finance Ministry shall pay standard state contributions and time-proportionate installments of personal income tax revenue sharing based on the number of all permanent residents in Budapest in one lump sum to the Budapest local government. The Budapest General Assembly shall provide for the further distribution of these funds.

#### Local Government Payment Obligations to the Central Budget

#### Paragraph 16.

(1) Local governments and their budgeting organs shall pay to the central budget 40 percent of their net profits derived from entrepreneurial activities, pursuant to separate decrees which govern local governmental business management accounting and bookkeeping requirements.

(2) The requirement to pay as established under Section (1) shall be waived for that part of net profits derived from entrepreneurial activities which the local government and its budgeting organ utilizes for the performance of basic functions in the current year or next year.

(3) Local governments and their budgeting organs shall review their founding charters by 30 June 1992 and shall define the types of basic activities they pursue.

(4) The National Assembly hereby authorizes the government to provide rules for documenting the utilization of the net profit mentioned in Section (1).

[3 Jan p 6]

[Text]

#### **Relationship Between Social Security and the Central Budget**

##### **Paragraph 17.**

(1) The sum of 14,722 million forints in privatization revenues to be realized and incorporated in the central budget in 1991 and 1992 shall be used to repay indebtedness as prescribed in Paragraph 5. Section (6) of Law No. 48. of 1989.

(2) The interest due after 1991 on the indebtedness mentioned in Section (1) amounts to 4,000 million forints. This amount shall be paid from centrally budgeted funds to the Social Security Fund prior to 15 April 1992.

(3) If on the basis of Paragraph 2. Section (3) of Law No. 104. of 1990 the state budget incurs the obligation of a guarantor for the Social Security Fund, such obligation shall be charged against the general reserves. Such obligation shall be fulfilled within 15 days after proclaiming a law on the 1991 budget performance of the Social Security Fund.

(4) An aggregate sum of money shall be paid from centrally budgeted funds to the Health Insurance Fund to cover persons, or dependents of persons who do not become entitled to insured medical service provisions based on their own and their employer's contribution. The 1992 amount to be allocated for this purpose shall be 2,600 million forints.

(5) The sum of 500 million forints in centrally budgeted funds shall be used in 1992 to reimburse the manager of the Social Security Funds [as published] for expenses incurred in conjunction with the disbursement of family supplements and other expenditures. Such reimbursement shall be made on the basis of itemized accounting.

(6) The sum of 4,400 million forints shall be allocated to cover increased costs resulting from changes in the sick pay system and a 1 percent increase in social security contributions, which burden organizations funded by the central budget in their capacity as employers—not including health care functions financed by the Social Security Fund.

(7) The sum of 3,600 million forints shall be allocated to cover functions having the character of aid which have been transferred [under the state budget] in the course of streamlining the functions of social security.

##### **Paragraph 18.**

(1) In the event that the Pension Insurance Fund runs a deficit, the central budget guarantees up to 1 percent of the expenditures of the Pension Insurance Fund, as such expenditures had been approved in the 1992 budget of the Social Security Fund.

(2) If as a result of an increase in the number of persons who receive such benefits or of some action taken by the central government the amount of benefits provided in the form of aid, fees or annuities exceeds the sum of 44,700 million forints, central budgeted funds shall be used to reimburse the amount of increase to social security. Such payment shall be charged against the general reserve fund of the central budget if such obligation is incurred during FY1992.

##### **Paragraph 19.**

Continuous payment of the obligations of the Pension Insurance Fund which is part of the Social Security Fund shall be guaranteed as a result of an opportunity to use the loan account tied to the state revolving fund which advances funds for the payment of pensions ["Pension Advance Fund"]. Repayment of interest-free amounts borrowed from this fund shall have priority over other payments and shall be made by the manager of the Pension Fund from revenues collected.

#### **Chapter III. Relationship Between the Central Budget and Organizations Outside of the State Household**

##### **Support of Voluntary Social Programs**

##### **Paragraph 20.**

(1) The National Assembly has determined standard, annual state contributions for churches, social organizations, foundations which perform social welfare and educational public functions (hereinafter: provide human services), and to private persons and businesses which provide human services as their main functions and obtain income from this independent activity (hereinafter: nonstate institutions) as follows:

	<b>Forints</b>
(a) For social welfare centers and institutions, per person provided for	174,000
(b) For institutional day care provided for the aged and the handicapped, per person provided for	28,000
(c) For children's health care centers and therapeutic educational institutions, per person provided for	201,000
(d) For each person brought up by the state or in institutions as part of protecting children and youth	201,000
(e) Honorarium for each social welfare worker providing home care	60,000
(f) For nurseries, per child	19,000
(g) For nationality or ethnic nurseries, per child (supplemental contribution)	5,000
(h) After each daytime elementary school student	36,000

	Forints
(i) After each student studying basic arts	21,000
(j) For the education of mentally retarded children, per child	65,000
(k) For the gymnasium education of students per student	51,000
(l) For each student enrolled in specialized high schools or specialized schools	63,000
(m) For theoretical studies in the framework of specialized worker training, per student	39,000
(n) For training workshop studies in the framework of specialized worker training, per student	37,000
(o) For nationality, ethnic or bilingual education, supplemental contribution per elementary or intermediate school student	15,000
(p) For dormitory provisions or students residing outside of school facilities, per student	62,000
(r) For higher education, per daytime student	84,000
(s) For institutions providing drug rehabilitation therapy to persons 35 years or younger, per number of days of care provided	300

(2) Standard state contributions may be obtained from the ministries having jurisdiction (hereinafter: specialized ministries) as provided for in Appendix 7. and based on planned task indexes.

(3) Churches operating in the form of legal entities shall not receive standard state contributions until the law on higher education takes effect or until 31 December 1992 whichever date occurs first, for the support of theological universities and academies established after the effective date of this law.

(4) Except for theological universities and academies, eligibility to receive standard state contributions shall be conditioned by the consummation of a contract between the nonstate institution on the one hand, and the specialized ministry acting in due regard to the opinion expressed by the [local] municipal government, or the Budapest or municipal government having jurisdiction in the area where the services are provided, on the other.

(5) Standard state contributions shall be disbursed based on index figures reported to the specialized ministry. Nonstate institutions shall account for the state contribution received by 31 January of the following year, based on the actual task indexes.

#### Paragraph 21.

(1) Political parties shall receive their share of the 900 million forint fund earmarked for the support of political parties based on the provisions of Law No 33. of 1989 which governs the operation and business management of political parties.

(2) The National Assembly will render a decision concerning the distribution of funds available for the support of nationality associations and social organizations.

(3) The National Assembly will render a decision concerning the distribution of the 1,931 million forint fund available for the direct support of churches.

#### Paragraph 22.

Except for political parties, nonstate institutions, and other social and professional organizations—in addition to those included under the Paragraphs 20.-21. provisions—may also receive financial support from segregated state funds allocated in various chapters and available to support the purposes of branch ministries. Such funds shall be disbursed and utilized pursuant to rules applicable to each individual fund.

#### Central Budget Guarantee Fund

##### Paragraph 23.

(1) The National Assembly authorizes the government to commit central budget funds in order to provide guarantees when this becomes necessary in the national interests, such as improving or preventing the deterioration of the external and internal balance.

(2) The combined total amount of guarantees provided in earlier years and due in this fiscal year, as well as guarantees to be provided on a case by case or individual basis shall not exceed 2 percent of the total amount of central budget expenditures shown in Paragraph 1. except when the guarantee is related to the procurement of crude oil, natural gas or electrical energy.

(3) The limit established in Section (2) may be exceeded only upon prior approval by the National Assembly.

(4) Guarantee funds expended from centrally budgeted funds shall become the indebtedness to the state of the original debtor; such debts shall be regarded as taxes from the standpoint of collection.

(5) The government shall present an itemized report to the National Assembly as part of its final accounting for the budget concerning guarantees provided during the fiscal year.

#### Paragraph 24.

The National Assembly hereby authorizes the government to guarantee loan agreements to be consummated with the International Bank for Reconstruction and Development, the European Investment Bank and the European Bank for Reconstruction and Development as required by these organizations, as well as loan agreements to be consummated with Export Guarantee, Inc., without limitation as to the amounts of such loans. Such guarantees shall be treated as central budget obligations.

**Budgeted Expenditures and Revenues Related to State Assets**

**Paragraph 25.**

Dividends to be paid in 1992 after shares of stock in commercial banks and other financial institutions managed by the AVU which represent the state's share in such banks and institutions, and returns on other state assets controlled by AVU shall constitute central budget revenues.

**Paragraph 26.**

(1) Direct and indirect expenditures incurred by AVU relative to the privatization of state assets shall be financed from the 2,125 forint centrally budgeted revenues to be derived from the privatization of state assets.

(2) The allocation made in Section (1) may be exceeded by a maximum of 30 percent under the government's own authority. Funds in excess of 30 percent of the allocation shall be subject to prior authorization by the National Assembly.

**Paragraph 27.**

(1) In addition to the amounts specified in Paragraph 17, Section (1) and Paragraph 26. Sections (1) and (2), the sum of 20,000 million forints derived from the privatization of state assets shall be paid in for the purposes of the central budget.

(2) The remainder of privatization revenues shall be used for the funding of purposes agreed upon as part of the Property Policy Guidelines, including partial payments to defray the state's indebtedness.

**Paragraph 28.**

(1) Revenues derived from the sale, or temporary or long-term use of state property managed by the Treasury Property Management Organization shall constitute central budget revenues.

(2) Revenues derived from the use of real property released as a result of the Soviet troop withdrawal and managed by the Treasury Property Management Organization shall be allocated as follows:

(a) in case of temporary utilization one-third of the total (gross) revenues shall be paid to the local government having jurisdiction and two-thirds to the central budget. In Budapest, 50 percent of the local government share shall be paid to the Budapest local government, and 50 percent to the district local government.

(b) in case of permanent business use half of the total revenues offset by the debt burden and investments (net revenues) shall be paid to the local

government, while the other half shall be paid in favor of the central budget. In Budapest, 50 percent of the local government share shall be paid to the Budapest local government, and 50 percent to the district local government.

(3) The allocation made in Paragraph 32. Section (1) Subsection (c) for purposes of preventing and mitigating environmental damages related to Soviet troop withdrawals may be increased by the government under its own authority by an amount not exceeding 830 million forints, provided that the central budget revenues derived from the sale or utilization of Soviet objects exceed the projected levels. If the amount of revenue surplus permits, the 100 million forints advanced from the Environmental protection fund shall also be repaid.

**Paragraph 29.**

The sum of 2,500 million forints to be derived from the sale of state inventories managed by the Reserves Management Directorate shall be credited to the central budget.

**Paragraph 30.**

At least 50 percent of revenues derived from the sale of state-owned real property managed and used by organizations funded by the state budget shall be credited to the central budget. The remaining revenues may be expended exclusively for construction investment, real property renewal and reconstruction purposes of the respective organs funded by the central budget [hereinafter: "state organs"].

**Chapter IV. Individual Allocations Within the Central Budget**

**Central Budget Reserve Allocations**

**Paragraph 31.**

(1) Of the sum of total expenditures approved in Paragraph 1., the sum of 5,000 million forints shall constitute general reserves.

(2) Of the sum of total expenditures approved in Paragraph 1., the following sums shall be allocated as earmarked reserves:

(a) the sum of 3,210 million forints which is part of the central wage policy fund, to cover salary and wage increases effective 1 September 1992 for persons employed in the fields of education, culture, public education and public collections, and the cost of related benefits;

(b) the sum of 3,790 million forints which is part of the central wage policy fund, to cover salary and wage increases and the cost of related benefits incurred during the year.

### Extraordinary Expenditures and Revenues

#### Paragraph 32.

(1) Of the sum of total expenditures approved in Paragraph 1., the following amounts shall be allocated to cover extraordinary expenditures to be financed by the central budget:

- (a) The sum of 2,000 million forints for developmental purposes (EXPO);
- (b) The sum of 5,400 million forints for purposes of compensation in the form of money;
- (c) The sum of 1,100 million forints to mitigate environmental damages found in conjunction with the Soviet troop withdrawal;
- (d) The sum of 500 million forints for expenditures related to the return of church real property.

(2) Of the total revenues approved in Paragraph 2., the sum of 20,000 million forints of extraordinary central budget revenues are privatization revenues.

### Standard Support of State Organs

#### Paragraph 33.

(1) The sum of 60,100 forints per year per person payable in the form of money to daytime students holding Hungarian citizenship attending Hungarian state institutions of higher education.

(2) The higher education institution shall determine the number of students planned to attend daytime classes and the utilization of support provided as part of the standard support, in due regard to legal provisions governing student aid.

(3) In the event that the actual number of students differs from the planned level, the difference shall be claimed from, or returned to the central budget during the supplemental budget period.

### Payment Obligations of Organizations Funded by the Central Budget

#### Paragraph 34.

(1) Organizations funded by the central budget shall pay 40 percent of the net profits derived from entrepreneurial activities to the central budget, pursuant to the provisions of separate decrees governing the order of business management and requirements for reporting and accounting.

(2) That part of entrepreneurial net profits which is used in a given year or in the subsequent year to fund the basic activities of organizations funded by the central budget shall not be subject to the payment requirement referred to in Section (1).

(3) Ministries and organs having national jurisdiction shall review the founding charters of the organizations

which prepare their respective budgets by 30 June 1992 and shall define what constitutes basic activities on the one hand, and entrepreneurial activities, on the other.

(4) The National Assembly hereby authorizes the government to provide rules for evidencing the use of net profits referred to in Section (1).

### Chapter V. Definition and Management of State Indebtedness

#### Paragraph 35.

Rules established by the National Assembly for the year 1992, as provided for in Paragraphs 36.-40. shall govern debts resulting from various credit relations—assumption of loans, securities transactions—established by the state household subsystems—the central budget, segregated state funds, local governments and social security—in the course of performing their duties (hereinafter: state debt).

#### Paragraph 36.

The interest rate on the financing of long term loans received from the MNB for the partial financing of the 1991 budget deficit shall be the same as the basic central bank interest rate in 1992.

#### Paragraph 37.

The National Assembly recognizes that the obligation of the State Development Institute vis-a-vis the central budget, as defined in Paragraph 31. Section (4) of Law No. 104. of 1990, has been changed as follows:

The indebtedness of the Institute is reduced because as a result of terminating the aluminum foundry industry the Hungarian Aluminum Industry Trust's repayment of state loans due in 1991/92 and amounting to 1,723 million forints, as well as the Trust's obligation to make contributions in the amount of 408 million forints relative to the basic funding provided by the state—altogether 2,131 million forints—are being converted into HUNGALU stock to be owned by the State Development Institute pursuant to National Assembly resolution 57/1991 of 17 October 1991. The central budget is obligated to repay the central bank credit which refinanced the state loan and the basic contribution made by the state.

#### Paragraph 38.

(1) In its capacity as a creditor, the State Development Institute may contribute—in the framework of bankruptcy or liquidation proceedings—not more than 2 percent of the state's indebtedness managed by the State Development Institute as of the end of 1991 to the rescheduling [of the loan] or to the conversion of the state's share of the debt into stock. The prior concurrence of the National Assembly shall be required for the rescheduling or conversion of state indebtedness exceeding the 2 percent level.

(2) Regarding state indebtedness managed by the State Development Institute, the prior permission of the National Assembly shall be required to forgive or to reschedule debts or to convert loans into stock in the framework of bankruptcy or liquidation proceedings which individually amount to, or exceed 500 million forints.

**Paragraph 39.**

In addition to securities transactions to cover the 1992 budget deficit, the volume of state indebtedness will expand and its size will increase in 1992 as a result of a special treasury bond issue (not used for deficit financing) which replaces housing bonds that have lost their financing backing in 1991 and 1992 as a result of the provisions of Paragraph 66. Section (1) of Law No. 104. of 1990.

**Chapter VI. Rules for Implementing the Central Budget**

**Paragraph 40.**

(1) The National Assembly hereby authorizes the government to collect the revenues shown in the 1992 central budget and to expend the amounts required to pay for the approved expenditures.

(2) State organs shall provide for the collection of their revenues and shall expend their revenues to cover their expenditures, except as stated in this law.

**Changes in Allocations Under National Assembly Jurisdiction**

**Paragraph 41.**

(1) Except as provided for in this law, only the National Assembly may change expense allocations from one chapter to another.

(2) Allocations made in Chapter IX Ministry of Public Welfare, Title 9, Subtitles 23-26, 28-30 and 35-39, as shown in Appendix 1. shall not be expended prior to the enactment into law of the legislative proposal on Social Welfare.

(3) No approval by the National Assembly shall be required for reallocations from one chapter to another if

(a) Such reallocation is related to the reorganization or changed supervision of state organs, or to transfers of functions and obligations agreed upon by organizations under different chapters;

[4 Jan p 6]

[Text]

(b) Such reallocation represents utilization within allocations made in branches and chapters, in other chapters or in other subsystems of the state household.

**Paragraph 42.**

The National Assembly reserves to itself authority to change allocations regarding the following titles:

- (a) Extraordinary revenues and expenditures (Chapter VII. Office of the Prime Minister, Title 29. Subtitles 1.-4., Chapter XVII. Ministry of Finance, Title 28.);
- (b) Standard support payable to Hungarian citizen, daytime students enrolled in state higher educational institutions (Paragraph 33. Section (1));
- (c) The extent of the state's standard contributions, designated and targeted support payments, personal income tax supplements and centralized allocations to municipal governments in due regard to authorizations contained in Paragraphs 5.-8., 15. and 45.;
- (d) The ratios for dividing personal income taxes, other taxes and revenues as provided for in Paragraphs 10.-13. and 28. of this law;
- (e) Reimbursements payable from state budgeted funds to the Social Security Fund (Paragraph 17. Sections (2)-(5));
- (f) The funding of segregated state funds to the extent provided in Appendix 1. to this law;
- (g) The extent of standard state contributions to non-state institutions providing human services (Paragraph 20. Section (1));
- (h) Support payments to political parties (Chapter II. National Assembly, Title 6.);
- (i) Support payments to nationality associations and social organizations (Chapter II. National Assembly, Titles 5. and 7.);
- (j) Restricted budgetary support for the Hungarian Television (Chapter XXIV. Hungarian Television, Chapter 5. allocation group 3.);
- (k) Support payments to churches (Chapter XVIII. Ministry of Culture and Public Education, Title 20., Subtitle 7.).

**Changes in Allocations Under the Authority of the Government**

**Paragraph 43.**

(1) Reallocations provided for in Paragraph 41. Section (1) Subsection (a) shall be authorized by the government if the amount to be reallocated exceeds 100 million forints.

(2) Except for authorizations provided in Paragraphs 42. and 46., reallocations between titles within individual chapters may be authorized by the government. The government may delegate this authority to the official responsible for the management of the given chapter.

(3) Within Chapter VII., Office of the Prime Minister, the authority of the administrative state secretary of the Office of the Prime Minister, in his capacity as the official responsible for the management of this chapter, shall not extend to allocations made under Title 11. Security Services, Title 16. AVU, Titles 18-23. National Technical Development Committee, and to centrally managed allocations and reserves related to the government's implementation of the central budget (Titles 26-29.).

(4) Within Chapter XVII. Ministry of Finance, the authority of the finance minister to reallocate funds as established by this law shall extend to Titles 1-14.

(5) Based on opinion expressed by the finance minister and with a simultaneous reduction of another expense allocation within the same title of the budget, the government may authorize an increase in the salary and wage fund provided for under the given title if, as a result of a change in the state's functional structure in the course of the year or some extraordinary circumstance or change in conditions, renders such an increase unavoidable and necessary.

(6) The government shall establish conditions for the use of "Recreational Support" provided for under Chapter XI. Ministry of Public Welfare, Title 8.

#### Paragraph 44.

(1) When using general or earmarked reserves the government shall authorize supplemental expenditure and support allocations or may exempt the payment of funds with a temporary or final effect, provided that determinations of obligations to make such payments are under its jurisdiction pursuant to legal provisions in force. In utilizing reserves, the amount of allocations of special significance may be increased.

(2) A maximum of 40 percent of the general reserves may be used during the first two quarters of the year. The use of such funds in excess of 40 percent shall be subject to approval by the National Assembly.

#### Paragraph 45.

If warranted, the government may reallocate funds between various authorizations under central allocations to local governments pursuant to Appendix 6. The National Assembly shall be informed of such reallocations. Central allocations that remain unexpended as of 30 November 1992 may be used by the government for municipal government purposes not included in the original allocation. The government shall provide an itemized accounting of such use as part of its final accounting.

#### Changes in Allocations Under the Authority of the Official Responsible for Managing a Chapter

#### Paragraph 46.

(1) The official authorized to make reallocations within a chapter shall be authorized to make reallocations within

titles within the chapter whenever this becomes necessary in order to establish, reorganize or terminate a state organ under the given chapter. The finance minister's concurrence shall be required for such internal reallocations.

(2) The official responsible for managing a chapter may authorize reallocations related to the expenditure of funds allocated for the purposes of a branch or the chapter as part of the approved allocation to the chapter. In the event that the allocation is expended under a different chapter or in a different subsystem of the state household, the finance minister's concurrence shall be required.

(3) When expending reserve funds within a given chapter, the official responsible for the management of the chapter shall authorize a supplemental allocation and shall inform the finance minister of this fact.

(4) Allocations of special significance within the central budget may be increased in the course of using or reallocating funds under a chapter which does not contain such detail.

(5) The official responsible for the management of a chapter may reallocate funds within individual chapters of the budget for the procurement, establishment, renewal or major repair of fixed assets or for investments made by the government, provided that such reallocation is also justified from the standpoint of technical and financial performance. This authorization does not apply to individual allocations for the renewal of, and investment in fixed assets treated as particularly significant in the framework of the budget.

(6) Allocations for the renewal (major repair) of fixed assets and government investments may be reallocated under the authority of the official responsible for the management of a chapter for purposes of increasing the special allocation for the salary and wage fund as well as the social security contribution of a state organ, if such reallocation is implemented under the sole authority of the official responsible for the management of the budget. The amount of such reallocation shall correspond with the actual amount required for the increase.

(7) If in the course of the year a significant change occurs as a result of new legal provisions, changes in legal provisions or extraordinary circumstances, the official responsible for the management of the applicable chapter shall have the authority and duty to change the expenditure and revenue allocation of the state organ which he supervises. Support allocations may be reduced along with increases in the organ's projected revenues.

(8) Reserve allocations under given chapters may be increased under the authority of the official responsible for the management of a chapter, by the amount of savings achieved as a result of reorganizing or terminating a state organ under the official's supervision, and by the amount of reduction in support as provided for in Section (7).

**Changes in Allocations Under the Authority of State Organ**

**Paragraph 47.**

(1) The salary and wage fund of a state organ may be increased as a result of reallocating funds earmarked for nonpersonal services solely on the basis of the Paragraph 43. Section (5) provisions.

(2) The expenditure and revenue allocations of a state organ which constitutes a title [or] subtitle in the budget may be increased by revenues obtained from local governments, social security, segregated state funds and other sources that are not part of the state household, provided that such funds exceed the planned revenue levels and provided that such funds are expended for the performance of the organ's functions. Reallocated excess revenues may be expended to cover actual amounts paid for the performance of a given task and may extend to cover special allocations, including the salaries and wages fund. Revenues derived from the sale of equipment ["means"] shall not be used to pay salaries and wages.

(3) Unexpended surplus ["leftover"] funds or encumbered funds ["funds to which an interest is tied"] shall be expended by changing the allocation. A state organ may increase its expenditures and within that its special allocations by using its approved unexpended surplus funds. Unexpended surplus funds from nonpersonal service allocations shall not be used to increase the salary and wage fund.

(4) The revenue projections of a state organ which constitutes a title or subtitle in the budget shall be reduced if the projected revenues do not materialize or cannot be paid in. Failure to collect revenues shall not automatically trigger an increase in funding by the central budget. Expenditure projections need not be reduced if the failure to collect revenues can be offset by the use of unexpended surplus funds.

**Reporting Requirements Related to Changes in Budget Allocations**

**Paragraph 48.**

A detailed report shall be submitted in regard to reallocations provided for in Paragraphs 41.-47. Such report shall be submitted as part of the final accounting on the central budget performance and shall be grouped pursuant to the various categories authorizing reallocations.

**Deviating From Central Budget Allocations**

**Paragraph 49.**

(1.a.) Deviations from central budget expenditure allocations are exempted from reallocation requirements established by this law up to the actual amounts expended:

- (a) Standard state supports for human services (especially significant allocation under Chapter XI. Ministry of Public Welfare, Title 9. Subtitles 45.-48. and Chapter XVIII. Ministry of Culture and Public Education, Chapter 20. Title 4. Subtitle 3.);
- (b) Family supplement (Chapter XI. Ministry of Public Welfare, Title 10.);
- (c) Standard support from current support provided to entrepreneurial ventures (Chapter XVII. Ministry of Finance, Title 18. Subtitle [illegible number]);
- (d) Consumer price support (Chapter XVII. Ministry of Finance, Subtitle 19.);
- (e) Use of the guarantee fund related to the repayment of bonds purchased by individuals (Chapter XVII. Ministry of Finance Title 24.).

(1.b.) Deviations from central budget revenue allocations are exempted up to the actual amounts received from reallocation requirements established by this law:

- (a) Payments by entrepreneurial ventures to the state budget (Chapter XVII. Ministry of Finance, Title 25.);
- (b) Consumption tax revenues (Chapter XVII. Ministry of Finance, Title 26.);
- (c) Individual payments to the budget (Chapter XVII. Ministry of Finance, Title 27.).

(2) The government shall offset the effects of deviations in projections which deteriorate the budget balance, by savings already or potentially accomplished in other expenditure allocations, by sequestering funds, by using all or part of the reserve funds or by generating excess revenues as a result of measures that can be taken under the government's own authority based on this or other law.

(3) The government shall submit a supplemental budget request to the National Assembly if the deviations enumerated in Section (1) cannot be offset as a result of action taken pursuant to Section (2).

**1992 Rules for Local Government Planning and Budget Implementation**

**Paragraph 50.**

(1) Following the adoption of the central budget law, local governments shall submit their budgets to the respective local representative bodies pursuant to the following categories:

- (a) Revenues per source;
- (b) Maintenance and operations projections per local government organ with independent budgeting authority [hereinafter: "local government agency"]; and within that separately

- Salaries and wages, and social security contributions;
- Targeted tasks; and
- Investment and renewal cost projections designated by the local government per purpose;

(c) General reserves; and

(d) Earmarked reserves.

(2) Local government agencies shall not exceed the expenditure allocations made pursuant to Section (1), unless they obtain unscheduled revenues from a subsystem of the state household, a foundation or from their own activities, or if they have approved unexpended surplus funds. Salary and wage allocations for a given year may be increased by the amount of salaries and wages paid in conjunction with the revenues enumerated in this Section and by that part of the unexpended surplus fund which represents salaries and wages.

(3) Local governments shall prepare a budget report in a manner and at a time prescribed by the finance minister within two months from the date of proclaiming the budget law. The budget report shall be prepared in the framework of the state household information system and shall be forwarded to the TAKISZ having jurisdiction in the region.

(4) General and earmarked reserves listed separately in local government budgets shall be used to fund additional needs arising in the course of the year and to supplement revenues which have not materialized. The local legislature is authorized to delegate dispositional authority over the reserve to its own committees and to the mayor, within limits established by the representative body.

(5) Allocations approved by the representative body shall not be reallocated, except if approved by the representative body upon the mayor's initiative for purposes of performing local functions. The authority to approve reallocations may be delegated by the representative body to its own committees and to the mayor within limits established by the representative body.

(6) With respect to the financial management of local governmental bodies, regarding issues not addressed under Sections (1)-(5), the provisions of Paragraph 35, Paragraph 36, Sections (2)-(4) and Section (6), Paragraphs 38-42, and Paragraph 44, of Law No. 104, of 1990, "Part Three. The Financial Management of Local Governments" shall be applied.

**Permissions and Prohibitions Concerning Borrowing, Deposit of Funds, and the Purchase of Securities by State Organs**

**Paragraph 51.**

(1) State organs shall not borrow funds from banks to satisfy possible liquidity requirements relative to the

payment of wages in addition to credits which serve the purpose described in Section (2).

(2) State organs may borrow funds to cover their share in implementing World Bank programs.

(3) State organs shall deposit their unobligated funds only at the financial institution which manages the organ's budget account and only in the form of long-term deposits.

(4) State organs may use temporarily unobligated funds for the purchase of securities guaranteed by the state with a maturity of shorter than one year.

**The Order of Funding: The State Operating Fund**

**Paragraph 52.**

(1) The state operating fund shall be the central institution for disbursing centrally budgeted funds.

(2) The MNB shall administer the state operating fund and the related revenue and expenditure accounts. The finance minister and persons designated by the finance minister whose signatures are on record at the bank shall dispose over these accounts.

(3) Accounts established to collect state revenues resulting from privatization shall not be tied to the state operating fund. Funds accumulated in these accounts shall be used pursuant to rules provided by law and as part of the Property Policy Guidelines.

(4) The central depository account managed by the MNB shall not be part of the state operating fund. This account shall serve the purpose of managing central budget revenues, and expenditures to be charged against such revenues, outside the budget process. Amounts derived from the repayment of advances made from this account to cover budgeted expenditures prior to 1990 shall be deposited in accounts tied to the state operating funds, pursuant to the character of the function [for which the advance has been used].

(5) Organizations managing chapters of the budget and certain state organs may dispose over the depository account with the permission of the finance minister and in exceptional cases.

(6) Revenues and expenditures managed in the framework of accounts outside the budget pursuant to Sections (3)-(5), the activity and changes in the status of such accounts shall be reported to the National Assembly as part of the final accounting on the budget.

**The Order of Funding the Chapters**

**Paragraph 53.**

(1) Budgetary support shall be allocated to each chapter in the budget by debiting the state operating fund in amounts approved in the budget law for each state organ,

and in amounts representing the differences in expenditure and revenue allocations and projections resulting from changes made in the course of the year.

(2) The following accounts maintained by the central bank shall be used in transactions between state organs and the central budget itself:

- Budget account,
- Year-end unexpended surplus account,
- Fixed asset maintenance basic account, and the
- Revenue account.

**Paragraph 54.**

(1) Disbursements from the state operating fund shall be made for the purpose of each chapter

- In equal monthly installments; or
- Pursuant to the fund disbursement plan.

(2) State organs under a given chapter, as changed in the course of the year, shall automatically receive 11 equal monthly installments of their respective operating expenditures. Changes made during the year and savings expected as a result of failure to perform a function shall be reconciled at the chapter level with the Ministry of Finance in the month of November. The amount of expected annual budget support shall be determined in the course of such reconciliation. In December, state organs shall receive the difference between the anticipated level of budgetary support and the amount of support disbursed prior to December.

(3) A disbursement plan shall be prepared at the chapter level for each quarter in advance—except by 15 January for the first quarter—covering the:

- Projected costs of the renewal of, and major repairs on fixed assets managed by the state organs, and of projected expenditures related to other significant and extraordinary expenditures included in the budget; and
- Allocations centrally managed under the various chapters.

The disbursement plan shall be a month by month schedule of the funding of tasks enumerated in the budget adjusted to the receipt of revenues covering such expenditures for the purpose of disbursing budgeted funds, in due regard to the provisions of Sections (4)-(5). The Finance Ministry may deviate from the disbursement plan based on considerations related to the rational payment of expenditures and the preservation of the state operating fund.

(4) Allocations for designated support to self-inspired social organizations (political parties, social organizations, churches, foundations) in the disbursement plan,

budgeted under a chapter, and standard state contributions to be provided to beneficiary nonstate institutions may be disbursed

- In one sum at the beginning of the year if the annual support to be provided to a given organization does not exceed 2 million forints;
- Semiannually, if the annual support to be provided to a given organization does not exceed 12 million forints; and
- Quarterly, if the annual support to be provided to a given organization exceeds 12 million forints.

(5) In the event that an allocation is expended under a different chapter or in a different subsystem of the state household, those responsible for the chapter providing the allocation shall request the finance minister to reallocate the funds.

(6) Payment based on the net profits of entrepreneurial activities pursued by state organs shall be paid to the revenue account related to the chapter by 31 March following the year in which the revenues were collected.

[6 Jan p 6]

[Text]

**Paragraph 55.**

Support to state business organizations whose funding is not based on the law concerning the order of taxation shall receive their funding from the Ministry of Finance in equal monthly payments.

**Paragraph 56.**

Unless otherwise provided by law, financial benefits disbursed by the Social Security Fund but paid from centrally budgeted funds shall be paid monthly by the Ministry of Finance based on an agreement with the Social Security Chief Directorate.

**Paragraph 57.**

Debt service (principal and interest) related to the domestic indebtedness falls due quarterly, on the 15th day of the month following the quarter. Based on its quarterly obligation the state shall make an advance payment each month, on the last workday of the month.

**The Order of Funding Local Governments**

**Paragraph 58.**

(1) The Ministry of Finance shall pay the standard state contribution to local governments in equal monthly installments through APEH, prior to the 10th day of each month. These payments shall be made directly to the local governments, calculated on the basis of the planned indexes.

(2) At the end of the year recipient local governments of allocated state contributions approved as part of the central budget shall account for the funds received based on the actual situation, in due regard to changes based on the Paragraph 5. Section (5) provisions.

(3) Disbursements during the year shall be made without taking into account the separation or merger of municipal governments, or the transfer of functions during the year from one local government to another. Local governments shall settle their finances among themselves, based on mutual agreements.

(4) No further contributions shall be made from centrally budgeted funds to a local government on account of a function or institution transferred by the local government to an organization outside of the local government. Local governments shall report such transfers prior to the 5th day of the month preceding the transfer to the Ministry of Finance through TAKISZ, and shall attach the document evidencing the transfer. If the receiving organization is entitled to budgetary support, centrally budgeted funds shall be provided through the specialized ministry having jurisdiction on the basis of this law, consistent with the date of transfer.

(5) The Ministry of Finance shall make available local government funds to support the operation of theaters through APEH in equal monthly installments until 31 May, a single installments covering three months of operation in June, and the remainder in equal monthly installments beginning in September.

(6) The Ministry of Finance shall disburse designated and targeted support payments through APEH consistent with the completion of development projects and reconstruction, and in proportion to the use of [the local government's] own resources directly to the local government designated by law. Central disbursement will not follow the separation or merger of municipalities in the course of the year.

(7) The Ministry of Finance shall pay 1/12 of the local government share of personal income taxes through APEH each months prior to the 5th day of the months directly to local governments. Central disbursement will not follow the separation or merger of municipalities in the course of the year.

(8) The minister of finance may deviate from the practice of making monthly payments in the disbursement of supports and supplements which have been determined to be charged against central allocations or relate to reallocations, if necessary.

(9) The local government share of revenues derived from the sale of a former local council enterprise by AVU shall be paid by AVU to the entitled municipal government within 30 days from the day it received the funds.

(10) The Treasury Property Management Organization shall pay the local government share of proceeds it has received from the sale of state property it managed to the

entitled municipal government within 30 days from the date of receipt of such proceeds.

#### Paragraph 59.

(1) By the 20th day of each month, the county collection offices shall transfer to the county government's clearing account part of the fees and dues collected to that day, as shown in Paragraph 14. Section (3) Subsection (a).

(2) By the 20th day of each month, the county collection offices shall transfer to the budget clearing accounts of non county seat autonomous city governments part of the fees and dues the city government has collected, as shown in Paragraph 14. Section (1) as offset by the expenditures, as shown in Paragraph 14. Section (4).

(3) Simultaneously with the transfer of revenues under Section (1), revenues defined in Paragraph 14. Section (3) Subsection (b) shall be transferred to the financial institution which manages the county government's account. A 1/19 share of the aggregate amount of revenues collected nationwide shall be transferred to the clearing account of each county government by the 25th day of each month.

(4) The fund transfers provided for under Sections (1) and (3) shall be accomplished for the first time by 20 February 1992 so as to retroactively cover the period beginning 1 January 1992.

(5) Rules that prevailed in 1991 shall be applied to the settlement of fees and dues revenues deposited to the accounts of collection offices as of 31 December 1991.

#### Paragraph 60.

Municipal governments and organs funded by the municipal budget shall remit their payments due based on the net profits of entrepreneurial activities by 31 March of the year following the fiscal year in which the profits were earned.

#### The Order of Funding and Remittance by Segregated State Funds

#### Paragraph 61.

Segregated state funds shall be automatically entitled to receive their allocations approved as part of the central budget for 11 months of the year. Payment for the 12th months shall be made based on a separate accounting and a requisition submitted by the manager of the fund.

#### Paragraph 62.

The managers of segregated state funds shall remit the funds they are obligated to remit to the state budget in equal monthly installments.

**The Order of Funding the Social Security Fund**

**Paragraph 63.**

In fulfillment of obligations agreed to as part of the central budget, the Social Security Fund shall receive direct support payable from the state operating fund. Such payments shall be charged against approved and/or amended budgetary allocations. Unless otherwise provided by law, funding shall take place in equal monthly installments.

**Payment of Other Expenditures To Be Charged Against the Central Budget**

**Paragraph 64.**

Expenditures to be charged against the central budget and not governed by Paragraphs 53.-63. shall be paid when due.

**Delayed Administration of the Budget**

**Paragraph 65.**

The central budget includes the revenues collected and expenditures paid between 1 January and 31 December.

**Paragraph 66.**

(1) Except as provided for in Sections (2) and (3), neither the revenues nor the expenditures of the state operating fund carried over from the previous year shall be part of the central budget.

(2) In order to ensure a smooth start in the management of the 1993 budget, the National Assembly authorizes the minister of finance to advance to local governments an amount equaling one month's share of the standard contributions pursuant to calculations submitted by each individual local government. This payment shall be temporarily charged against the state operating fund. The advance may be paid on 27 December 1992 at the earliest, and shall be accounted for in the form of a charge against the 1993 central budget.

(3) The National Assembly authorizes the minister of finance to extend the deadline (delayed handling) for accounting for expenditures, revenues and recovered funds until 28 February 1993 regarding

- (a) Investments made by the government under all chapters of the budget;
- (b) Requests for designated and targeted support submitted by local governments;
- (c) Standard state contributions to human services performed by nonstate institutions; and
- (d) Standard support provided for Hungarian citizen, day time students.

(4) The government shall provide an itemized accounting in the framework of the final budget settlement concerning final settlements charged against the 1992 budget during the delayed handling period.

**Chapter VII. Temporary and Miscellaneous Provisions Related to the Central Budget**

**Paragraph 67.**

In 1992, the heads of AVU, the National Technical Development Committee, the National Labor Protection [as published] and Labor Affairs Chief Superintendency, the Superintendency for Recreation and Sanatoriums, the Central Geological Office and the National Physical Education and Sports Office, as well as the minister without portfolio supervising the Security Services shall continue to exercise all authorities and perform all duties assigned in legal provisions governing the authorities and duties of officials in charge of managing various chapters of the budget.

**Paragraph 68.**

(1) Appendix 3. which details the various criteria and amounts of standard state support to which local governments are entitled also contains supplemental rules which shall be applied in accounting for standard state support provided in 1991.

(2) The Paragraph 30. provisions shall not apply to revenues derived from the sale of real property authorized by the government prior to 31 December 1991.

**Paragraph 69.**

The National Assembly authorizes the government:

- (a) To provide technical criteria for state contributions to which local governments and state organs are entitled and which may be requested by nonstate institutions, and for the description and record keeping requirements of task indexes and index figures which serve as the basis of establishing claims and for performing financial transactions;
- (b) To promulgate a decree governing the financial management of local governments and their organs funded by the budget, and the financial management of state organs, the method of calculating the net profits derived from the entrepreneurial activities of these, and rules for performing the obligation of transferring funds in the form of charges against such net profits;
- (c) To separately establish the share of sales proceeds in excess of 100 million forints to which the central budget is entitled in the framework of the Paragraph 30. provisions;
- (d) To promulgate a decree governing the remittance of revenues derived as a result of special, natural, production or commercial situations so as to ensure the collection of the approved level of revenues projected in the budget.

**Paragraph 70.**

(1) The National Assembly requests the government to submit its recommendation concerning various reductions in the administrative expenditures of ministries and organs having nationwide jurisdiction by 30 April 1992, at the latest. The recommendation shall result in a total savings of 1,200 million forints. This amount shall be allocated so as to increase the general reserves.

(2) The National Assembly authorizes the minister of finance:

- (a) To provide rules for the order of budgeting and budget administration by state organs, segregated state funds and municipal governments in 1992, and for budgeting by the same entities for 1993, and further, for the central registration and bank accounts of state organs, and for the order of reporting and data provision, during and at the end of the year;
- (b) To establish rules for the transfer of domestic motor vehicle taxes to the central budget and to the highway fund respectively.

**Paragraph 71.**

The government shall report to the National Assembly concerning the financial condition of the state household by 15 September 1992. The report shall include descriptions of the actual performance of the central budget and of segregated state funds as compared to the projections, the utilization of reserves, the evolution of the deficit or surplus, and of the expected performance of the central budget.

**Part 2. Amendments to Legal Provisions Related to Projections Contained in the Central Budget and Which Serve as the Foundation for Such Projections**

**Amendments to Law No. 104. of 1990 Concerning the 1991 State Budget of the Hungarian Republic and Rules for Managing the State Household**

**Paragraph 72.**

(1) Paragraph 1. of Law No. 104. of 1990 Concerning the 1991 State Budget of the Hungarian Republic and Rules for Managing the State Household [hereinafter: Budget Law] shall be amended by adding a new Section (11) as follows:

- “(11) Revenues derived from the use of real property released as a result of the Soviet troop withdrawal and managed by the Treasury Property Management Organization shall be allocated as follows:

“— In case of temporary utilization one-third of the total (gross) revenues shall be paid to the local government having jurisdiction and two-thirds to the central budget;

“— In case of permanent business use half of the total revenues offset by the debt burden and investments (net revenues) shall be paid to the local government. The central budget is entitled to receive the other half.”

(2) The following provision shall replace Section (3) of Paragraph 19. of the Budget Law:

- “(3) The National Assembly authorizes the minister of finance to extend the deadline (delayed handling) for accounting until 28 February 1992 regarding all titles in every chapter involving investments tied to the Housing Funds, requests submitted by local governments for designated and targeted support approved in Appendixes 5. and 6. to this law, as well as accounting for the distribution of revenues collected under the provisions of Paragraph 1. Section (11).”

**Paragraph 73.**

On the effective date of this Law, Part 1. Paragraphs 8.-21., Paragraph 22. Section (2) and Paragraph 23., as well as Part 3. Paragraph 36. Sections (1) and (5), and Paragraphs 37. and 43. of Law No. 104. of 1990 Concerning the 1991 State Budget of the Hungarian Republic and Rules for Managing the State Household shall lose force.

**Amendments to Law No. 11. of 1988 as Amended Several Times Concerning the Central Technical Development Fund**

The National Assembly amends Law No. 11. of 1988 concerning the Central Technical Development Fund as follows:

**Paragraph 74.**

(1) Paragraph 8. Section (4) Subsection (c) of Law No. 11. of 1988 shall be replaced by the following provision:

- “(c) The term ‘product produced’ as contained in Section (3) shall mean the production of products included in the KSH [Central Statistical Office] product listings (ITJ [Industrial Product Listing] and METJ [Agricultural Product Listing]), the production of industrial products by hired labor, as well as other products and services enumerated in Appendix 7. An investment which increases the value of a building previously not qualifying as a hotel, but which results in the qualification of such building as a hotel or in the ranking of a hotel in a higher classification shall be regarded as a hotel constructed by a business organization.”

(2) Paragraph 8. Section (6) Subsection (a) of Law No. 11. of 1988 shall be replaced by the following provision:

- “(a) Corporations complying with the provisions of Law No. 53. of 1989, Law No. 47. of 1990 and Paragraph 8. Section (3) of Law No 11. of 1988,

as amended by Law No. 51 of 1990 until 31 December 1995." [As published]

(3) Appendix 7. to Law No. 11. of 1988 shall be replaced by Appendix 8. to this Law.

(4) Beyond the developmental purposes defined in Paragraph [illegible number] of Law No. 11. of 1988 and in addition to use purposes authorized in Paragraph 11. of Law No. 11. of 1988, the following amounts shall be transferred in 1992 on a temporary basis:

- (a) The sum of 2,000 million forints for the purposes of the National Scientific Research Fund,
- (b) The sum of 2,000 million forints for the purposes of "Catching Up With European Higher Education," and
- (c) The sum of 1,000 million forints to the central budget.

(5) Beginning in 1992 the Central Technical Development Fund shall finance the administrative expenditures of the National Technical Development Office and of the Hungarian Standards Office, as well as the expenditures related to the operation of the research and technical development information system of the National Technical Information Center and Library." [Quotation mark at the end: as published. It is unclear where the quotation begins.]

**Amendments to Law No. 23. of 1988 Concerning Contributions to Professional Training and the Professional Training Fund**

**Paragraph 75.**

(1) Paragraph 5. of Law No. 23. of 1988 concerning professional training and the Professional Training Fund, as amended by Law No. 68. of 1990 and Law No. 103. of 1990 shall be amended by adding the following Sections (2) and (3), and by renumbering the present Sections (2)-(4) as (4)-(6):

"(2) The Professional Training Fund shall provide funding for the operating expenditures of the National Professional Training Institute, an organization that pursues developmental activities in the field of professional training.

"(3) Funds remaining after the fulfillment of functions prescribed in Sections (1) and (2) shall be expended in support of investments to establish material conditions for the development of practical education by those obligated to contribute and by intermediate level specialized educational institutions, as well as the development of course materials and the introduction of new training programs."

(2) On the effective date of this law

—The second sentence of Paragraph 5. Section (1) of Law No. 23. of 1988 shall lose force;

—In Paragraph 6. Section (3) Subsection (b) of Law No. 23 of 1988 the words "in Paragraph 5. Section (1)" shall be replaced by the words "in Paragraph 5. Section (3)"; and

—In Paragraph 6. Section (3) Subsection (c) the words "Paragraph 5. Sections (2) and (3)" shall be replaced by the words "Paragraph 5. Sections (4) and (5)."

**Amendments to Law No. 40. of 1989 Concerning General Sales Taxes**

**Paragraph 76.**

The provision of Paragraph 27. Section (1) Subsection (a) of Law No. 60. of 1989 concerning general sales taxes, as amended by Law No. 19. of 1990 and Law No. 44. of 1989 (hereinafter: AFA Law) shall be replaced by the following provision:

"(a) The tax base relative to imported products shall be the customs value not including the customs duty, customs handling fees, and consumption taxes."

**Paragraph 77.**

The provision of Paragraph 40. Section (1) of the AFA Law shall be replaced by the following provision:

"(1) Taxpayers who provide commercial lodging services exclusively and who, according to their own estimate, do not expect to materialize sales revenues in excess of 1 million forints in the previous as well as the current fiscal year, shall be entitled to determine the amount of tax to be paid on the basis of an aggregate tax rate of 9 percent based on the value provided in exchange for sales revenues."

**Paragraph 78.**

The provision of Paragraph 45. Section (2) of the AFA Law shall be replaced by the following provision:

"(2) Determinations concerning taxes charged in advance shall be conditioned by a requirement that the taxpayer issue a voucher evidencing the purchase. From the standpoint of law on tax payments the voucher evidencing purchase shall be treated as an invoice. The voucher shall contain the following data in particular:

"(a) Name, address and taxpayer identification number of the person who completes the voucher;

"(b) Seller's name, and registered, permanent address;

"(c) Date of purchase (delivery);

"(d) Designation of the product, statistical classification number (in a manner so as to permit a tax rate determination);

- “(e) Unit price of the product, including taxes;
- “(f) Quantity of the product purchased;
- “(g) Tax rate based on the sales value of the product (20 percent or 0 percent);
- “(h) The purchase price paid, including taxes;
- “(i) The seller's signature.”

[7 Jan p 6]

[Text]

#### Paragraph 79.

The provision of Paragraph 46. of the AFA Law shall be replaced by the following provision:

#### “Paragraph 46.

“(1) An agricultural small producer shall be entitled to reclaim taxes charged in advance if his sales volume in a given year exceeds:

- “(a) 750,000 forints, provided that the agricultural small producer determines his income derived from this activity pursuant to Paragraph 12. Sections (5)-(7) of the personal income tax law (hereinafter: SZJA Law);
- “(b) 800,000 forints, provided that the agricultural small producer elects to reduce his total income pursuant to Paragraph 34. Section (4) of the SZJA Law.

“(2) When reclaiming taxes the invoice showing the taxes charged in advance against the procurement, or, in case of imported products, the document evidencing the payment of taxes shall be presented. The value of sale shall be evidenced by a voucher which must be issued by the buyer to the seller. The voucher evidencing the sale shall contain the following data in particular:

- “(a) Name and address and of the person who completes the voucher (the buyer);
- “(b) Date of purchase (delivery);
- “(c) Seller's name, and registered, permanent address;
- “(d) Designation, unit price of the product, quantity purchased;
- “(e) Statistical classification of the product;
- “(f) Purchase price paid;
- “(g) The signatures of the seller and the buyer.

“(3) Taxes charged in advance on purchases in a given year may be reclaimed to the following extent:

- “(a) The amount of tax in excess of 4,500 forints provided that the agricultural small producer determines his income derived from this activity on the basis of Paragraph 12. Sections (5)-(7) of the SZJA Law;
- “(b) The amount of tax in excess of 1,000 forints, provided that the agricultural small producer elects to reduce his total income pursuant to Paragraph 34. Section (4) of the SZJA Law.

“(4) In the context of this law agricultural small producer shall mean a natural person whose income derived from the sale of products enumerated in Appendix 8. does not exceed 2 million forints in a given year.”

#### Paragraph 80.

The provision of Paragraph 67. of the AFA Law shall be replaced by the following provision:

#### “Paragraph 67.

“(1) If the taxpayer writes off the value received—that serves as the basis for the tax—as a noncollectible receivable, he shall be entitled to reduce the amount of tax to be paid by the amount prorated to the value of the noncollectible receivable. Such reduction shall be made with the prior concurrence of the tax authority and shall be accomplished when the settlement following the write-off is due.

“(2) The tax authority shall give its prior concurrence if the taxpayer proves that

- “(a) He took all necessary action to collect his receivable and that
- “(b) Satisfaction of the claim is unlikely despite the available proof which serves as the basis for the claim he intends to enforce.

“(3) If, however, the taxpayer eventually collects the whole or part of the noncollectible receivable already written off, he shall increase the tax payable in proportion to the amount of satisfaction received regarding the claim when the next settlement is due.”

#### Paragraph 81.

(1) Effective 1 January 1992

- (a) The date indicated in Paragraph 6. Section (2), Paragraph 7. Section (1) and Paragraph 63. of the AFA Law shall be changed to “31 August 1991”;
- (b) The words “pursuant to accounting rules” in Paragraph 37. Section (2) and Paragraph 42. Section (5) of the AFA Law shall lose force;
- (c) Paragraph 58. Section (2) of the AFA Law shall lose force.

(2) Appendixes 2. and 3. to the AFA law shall be changed pursuant to the provisions of Appendixes 9. and 10. to this law.

(3) The term "fixed assets" used in Appendix 5. to the AFA Law shall be changed to read "material assets."

(4) Paragraph 14. Section (d) of the AFA Law shall be replaced by the following provision:

"(d) Products which serve the needs of the community (social welfare, health care, educational, cultural, religious, environmental, community development) and involve a broad group of citizens, imported with the permission of the county command of the Customs and Revenues Agency but without compensation and not in the framework of foreign trade, if [as published] the person obligated to pay taxes otherwise (Paragraph 4.) is not entitled to deduct taxes or reclaim taxes especially [primarily] if the imported goods become the property of a state organ, local government, social organization, a religious legal entity."

**Amendment to Law No 78. of 1991 Concerning Consumption Taxes and Consumer Price Supplements**

**Paragraph 82.**

Appendices 1. and 2. to Law No. 78. of 1991 concerning consumption taxes and consumer price supplements shall be replaced by Appendixes 11. and 12. to this law.

**Amendment to Law No. 100. Concerning Local Taxes**

**Paragraph 83.**

Paragraph 33. of Law No. 100. of 1990 concerning local taxes, as amended by Law No. 24. of 1991 shall be amended by adding the following Section (4):

"(4) The authority of this law shall not cover the MNB, the State Development Institute, the Monetary Center and the penal enterprise under the supervision of the Ministry of Justice."

**Amendment to Decree With the Force of Law No. 2. of 1989 Concerning Savings Associations**

**Paragraph 84.**

In order to permit interest earned on savings deposits to follow economic changes, based on the provisions of Paragraph 226. Section (2) of the Civil Code of Laws the National Assembly amends Decree with the Force of Law No. 2. concerning savings associations (hereinafter: Decree) as follows:

(1) The provisions of Paragraph 13. Section (1) of the Decree shall be replaced by the following provision:

"(1) Except as provided for in Paragraph 13/A, a financial institution shall not be authorized to unilaterally change the interest rate payable on

savings deposits, unless such right has been stipulated as part of a contract [between a depositor and the financial institution]."

(2) The decree shall be amended by adding the following Paragraph 13/A.:

**"Paragraph 13/A.**

"(1) Notwithstanding the provisions of Paragraph 13. Section (1), a financial institution shall be entitled to unilaterally change the interest payable on savings deposit agreements consummated after 1 February 1989 under conditions specified in Section (2).

"(2) The financial institution shall implement the change after publishing the new interest rate in daily newspapers, the radio and the television and after posting an announcement in its public offices at least 15 days prior to the change.

"(3) A depositor shall be entitled to cancel the agreement if he does not accept the change in interest rate. In cases described in Section (2) the period for notice of cancellation shall be 90 days. The financial institution shall pay the interest rate that prevailed prior to the change until the expiration of the cancellation period."

**Amendment to Law No. 25. of 1991 Concerning the Settlement of Ownership Conditions and Partial Compensation for Unjustly Caused Damages by the State in the Property of Citizens**

**Paragraph 85.**

The provision of Paragraph 25. Section (2) of Law No. 25 of 1991 shall be replaced by the following provision:

"(2) Expenditures related to the designation of the purchased arable land, its development as an independent piece of real property and its recording in the real property register shall be charged against the state budget; the acquisition of property shall be exempt from under fees payable for the acquisition of property."

**Part 3. The Issuance of State Bonds Related to the Termination of the Housing Fund**

**Paragraph 86.**

(1) The difference between the interest rate established for housing loans in Paragraph 65. of Law No. 54. of 1990 and the interest rate on housing loans provided by banks shall be refunded to the financial institutions that granted credit by using centrally budgeted funds, in a manner prescribed by the minister of finance.

(2) To cover the capital indebtedness forgiven pursuant to Paragraph 66. of Law No. 54. of 1990, the state shall

issue bonds in the amount of 85,000 million forints on 1 January 1992. This bond issue shall replace the housing bond.

(3) The state shall issue bonds on 1 January 1992 in the amount of 20,000 million forints to replace the so-called housing fund coverage bonds established on the basis of Paragraphs 24. and 25. of Law No. 18. of 1989.

#### Part 4. The State's Share of Income Produced by State Property

##### Paragraph 87.

In order to obtain needed revenues to cover the state's accumulation expenditures and in order to proportionately distribute the burden between the state and business organizations, the National Assembly provides rules in Paragraphs 88. through 95. for the state's share to be paid by managers and users of state property.

##### Obligation to Pay

##### Paragraph 88.

(1) State enterprises, trusts—unless otherwise provided in the trust's founding resolution, and trust enterprises shall pay part of their taxed, net profits to the state based on the state property under their management, and cooperatives shall do the same based on property recorded as state property which they possess.

(2) The state's share of income shall be paid even if the taxed, net profits do not cover the state's share.

##### Basis for Sharing

##### Paragraph 89.

(1) The state's share of income shall be a part of the taxed, net profits calculated pursuant to Section (2) and shown in annual financial statements corresponding with the ratio of state property within the recorded value of capital.

(2) The state's share shall be calculated on the basis of the positive taxed profit derived on the basis of profit calculations prescribed by Law No. 18. of 1991 concerning accounting practices.

(3) The ratio of state property shall be determined on the basis of the volume of state property reported in financial statements for 1991.

##### The Extent of Sharing

##### Paragraph 90.

(1) The extent of sharing shall be 25 percent of the basis for sharing.

(2) In cooperatives the percentage of sharing shall be the same as the percentage of dividend paid from the taxed, net profits based on the legal relationship of members and on the proportion of assets each member owns.

##### Withholding the Share

##### Paragraph 91.

(1) Corporations defined by the law on corporate taxes as public, health care, cultural or sports activities service providers obligated to pay the state's share may withhold a certain percentage of the state share that is proportionate to the corporate tax benefit to which they are entitled on the basis of these activities.

(2) The Hungarian Telecommunications Enterprise may withhold the state's share for telecommunications development purposes.

##### Procedural Rules and Rules for Calculating the Advance Tax Payments

##### Paragraph 92.

(1) It is the responsibility of each entity obligated to pay the state's share to calculate and to pay that share.

(2) Procedural issues related to the payment of the share not addressed in this law shall be resolved on the basis of provisions contained in the law concerning the order of taxation.

##### Paragraph 93.

(1) Advance payments shall be made during the year on the state's share payable after state property as follows:

(a) Except for organizations listed under (b) below, state enterprises, trusts—unless otherwise provided in the trust's founding resolution, and trust enterprises which have operated during the previous tax year shall pay in advance each month 1/12 of the actual share payment obligation they incurred in the previous tax year;

(b) Entities obligated to pay the state's share referred to in (a) above but classified as part of the agricultural and forest management branch of the national economy shall pay on a monthly basis 3.3 percent of their obligation in the first quarter, 6.6 percent in the second quarter, 10 percent in the third quarter and 13.3 percent in the fourth quarter;

(c) Cooperatives shall make advance payments after the state share of property recorded to be in their possession only if they paid advance dividends to the owners during the year. In such cases the advance share to be paid shall be calculated on the basis of the ratio of the advance dividend paid as compared to the ratio of property owned by each owner;

(d) In the event that entities have separated or united or became independent or merged during the tax year, the advance to be paid shall be determined pursuant to the rules provided under (a) and (b)

above based on the actual share payment obligation they incurred in the previous tax year, divided or combined, as the case may be;

- (e) Entities established in the course of the tax year and obligated to pay the state's share shall not make advance payments.
- (2) The tax authority shall notify entities obligated to share income with the state referred to in Section (1) Subsections (a), (b) and (d) of the amount of advance share they must pay. Notice shall be effected in the form of an order to pay.
- (3) The amount of advance payment prescribed by the tax authority shall be supplemented by the expected amount of annual contribution, and the difference between the two amounts shall be paid.
- (4) Advance shares paid to the state during the tax year shall be compared to the amounts determined on the basis of annual reports, and the difference shall be paid or withheld, as the case may be.

#### Temporary and Closing Provisions

##### Paragraph 94.

Corporations managed by enterprise councils (general meetings, meetings of delegates) which have transformed into business organizations prior to the effective date of Law No 82. of 1990 or which have already submitted their plans to transform to the state property management organization and have become established accordingly shall proceed pursuant to the provisions applicable to cooperatives, as provided for in this law, in regard to the state's share to be paid after business shares (stock) retained.

##### Paragraph 95.

- (1) The provisions of Paragraphs 87. through 94. shall take effect on 1 January 1992, their provisions shall be enforced for the first time relative to determining the share payable to the state after the 1992 taxed, net income.
- (2) On the effective date of this law, Law No. 43. of 1989, and Laws No. 50. and 99. of 1990, both of which amended Law No. 43. of 1989 shall lose force.

#### Part 5. Closing Provisions

##### Paragraph 96

- (1) Except for the provisions of Paragraph 82., this law shall take effect on 1 January 1992. Paragraph 82. shall take effect on 6 January 1992.
- (2) The provisions of Paragraph 76. and of Paragraph 81. Section (2) shall be applied to sales consummated after 31 December 1991, and in case of imports, to products imported or brought in, or services performed after 31

December 1991, both with respect to the obligation to pay taxes and the entitlement to deduct or to reclaim taxes.

Arpad Goncz, President of the Republic

Gyorgy Szabad, President of the National Assembly

#### Law on 1996 EXPO

92CH0288A Budapest MAGYAR KOZLONY  
in Hungarian No 140, 18 Dec 91 pp 2,834-2,837

[“Law No. 75 of 1991 on the World Exposition of 1996” adopted by the National Assembly at its 3 December 1991 session]

[Text]

- For the Hungarian Republic to realize the goals established in “Paths Into the Future” under subtheses on peaceful communications, a resurrecting environment, and the meeting of cultures,
- To demonstrate the unity of the modern world, the idea of historical continuity and the harmonious, friendly to the environment relationship between nature and man,
- To underscore the cultural and economic aspects of the European ideal and community,
- To provide a new charge to economic development, culture and foreign tourism in the Hungarian state, [and]
- To provide a national program to appropriately remember the 1,100th anniversary of the conquest of our homeland and our presence in Europe,

The National Assembly creates the following law:

##### Paragraph 1.

A specialized, international exposition designated as “Expo '96 Budapest” (hereinafter: “World Exposition”) shall be organized in 1996, in due regard to the provisions of an agreement concerning world expositions signed in Paris on 22 November 1928 as proclaimed by Council of Ministers Decree No. 21 of 24 May 1982.

##### Time and Duration of the World Exposition; Advance, Subsequent, and Supplemental Functions

##### Paragraph 2.

- (1) The World Exposition shall open on 11 May 1996 and shall close on 4 October 1996.
- (2) Advance, subsequent, and supplemental functions may be linked to the World Exposition.

(3) Advance and subsequent functions shall be based on competing offers invited and judged by the World Exposition Council (Paragraph 6.), and supplemental functions organized in the area outside of the World Exposition shall be qualified as such by the World Exposition Council.

*The Area of the World Exposition*

**Paragraph 3.**

The Capital City of Budapest shall yield the area designated in the Appendix to this law [map omitted]—a total area of 80 hectares of land—(hereinafter: World Exposition area) for purposes of the World Exposition.

*Financial Conditions of and Guarantees for the World Exposition*

**Paragraph 4.**

(1) The World Exposition shall be organized by the government. Its functions shall be performed by the World Exposition Program Office (hereinafter: Program Office). The Program Office shall be a legal entity.

(2) With the approval of the World Exposition Council, the Program Office shall establish a corporation or may utilize the services of a corporation to realize the World Exposition.

(3) The sum of 17 billion forints calculated at 1990 constant prices shall be provided in annual installments until 1996 from funds budgeted by the state. The chief commissioner shall authorize the use of centrally budgeted funds.

(4) Except for the sum of 17 billion forints referred to in Section (3), the World Exposition shall be organized without contributions from the central budget.

*The Chief Commissioner and the World Exposition Council*

**Paragraph 5.**

(1) The government shall perform its tasks related to the World Exposition through the World Exposition chief commissioner (hereinafter: chief commissioner) to be appointed by the government.

(2) The chief commissioner shall represent the government regarding issues related to the World Exposition.

(3) The chief commissioner shall perform his functions through the Program Office, which shall function as an organ funded by the state budget.

**Paragraph 6.**

(1) A World Exposition Council shall be established for the performance of individual functions related to the organizing of the World Exposition.

(2) The chief commissioner shall be the chairman of the World Exposition Council; the ten members of the World Exposition Council shall be appointed by the government.

(3) Business organizations and autonomous local governmental bodies in the countryside shall have consultative rights to be exercised through their interest groups in the workings of the World Exposition Council.

**Paragraph 7.**

The functions and jurisdiction of the chief commissioner, the World Exposition Council and the Program Office shall be determined by the government in the form of a decree.

*Proceedings Related to the Area of the World Exposition*

**Paragraph 8.**

(1) A detailed organizing plan concerning the area of the World Exposition shall be established by 30 May 1992 subject to the concurrence of the World Exposition Council.

(2) Subsequent concurrence of the World Exposition Council shall be obtained for detailed organizing plans pertaining to the area of the World Exposition, adopted prior to the effective date of this law. The modified plan shall be established by 30 May 1992.

**Paragraph 9.**

For purposes of realizing the World Exposition, ownership, management, and use rights in the area of the World Exposition shall be settled primarily on the basis of agreements between the various parties (buying and selling, joining business organizations, transfer of management rights); failing such agreements the area of the World Exposition shall be acquired for the purposes of the World Exposition on the basis of official action initiated upon requests made by the Program Office (expropriation, application of provisions concerning the management of local settlements, etc.). The program office shall manage these real properties owned by the state.

**Paragraph 10.**

(1) For purposes of realizing the World Exposition, revocation of the management and use right of these state-owned real properties in the area of the World Exposition, and the designation of the new manager

(user) shall take place at the request of the Program Office. No indemnification shall be provided for revoking management rights. This provision shall have no effect on indemnification due for other rights of pecuniary value.

(2) When management rights are revoked, the Program Office shall guarantee the debts existing at the time of revocation, to the extent of, and in proportion to the pecuniary value of the assets or rights revoked. The Program Office shall be liable for damages caused to creditors as a result of the revocation.

(3) Public interest and excepted status shall be determined pursuant to this law relative to expropriations initiated by the Program Office in the area of the World Exposition.

#### Paragraph 11.

(1) Any undeveloped land owned by the state in the area of the World Exposition (Paragraph 3)—including roadways, parks, and other public areas—shall not be transferred to the ownership of autonomous local governmental bodies based on Law No. 33 of 1991 concerning the transfer of certain state assets to the ownership of autonomous local governmental bodies. (hereinafter: OVT).

(2) Decisions concerning the transfer of undeveloped land designated by Capital City Council Resolution 175/1990 and not included under Section (1)—including roadways, parks and other public areas—shall be made on the basis of the OVT.

#### Paragraph 12.

(1) The chief town clerk shall have authority to proceed in the first instance in regard to state administrative official issues involving any real property and activity in the area of the World Exposition.

(2) Revocation of management rights to state owned real property in the area of the World Exposition, the designation of a new manager and the transfer of management rights shall be under the authority of the chief town clerk, unless provided otherwise by the organ exercising ownership rights.

(3) The chief town clerk's proceedings under Sections (1) and (2) shall be governed by the provisions of Law No. 1. of 1981 concerning rules of state administrative procedure with the following changes:

- (a) A decision of the first instance shall be rendered within 15 days from date of receipt of a petition or from the date when ex officio proceedings began;
- (b) Specialized authorities shall perform the functions prescribed in the town clerk's decision within eight days from receipt of notice;

(c) Appeals against the decision in the first instance may be filed within eight days from date of receipt of notice of decision;

(d) The provisions contained in (a) and (b) above shall also apply in proceedings of the second instance.

#### Paragraph 13.

(1) To ensure the fulfillment of the World Exposition goals, the chief commissioner shall exercise the authority of a specialized authority in regard to all official proceedings involving real property and activities in the area of the World Exposition.

(2) To ensure the fulfillment of the World Exposition goals, the concurrence of the chief commissioner shall be required for the sale (transfer of management rights), encumbrance, transfer in the form of a nonmonetary contribution to a business organization and the yielding of use rights of all state-owned property in the area mentioned in Section (1).

(3) The provisions of Law No. 1 of 1989 concerning general rules of state administrative procedure shall be applied to all decisions rendered by the chief commissioner within the scope of his authority defined in Section (2) except that there shall be no state administrative recourse against the decisions rendered by the chief commissioner.

#### Closing Provisions

#### Paragraph 14.

(1) The terms "World Exposition" and "EXPO" shall be used on behalf of incorporated and unincorporated businesses, and of individual businesses only upon approval by the chief commissioner.

(2) Paragraph 10. Section (2) of the OVT shall be amended by adding the following Subsection (e):

*(Unless otherwise provided for by law, undeveloped land shall not be transferred to the ownership of local autonomous governmental bodies pursuant to Section (1) if)*

*"(e) Such land is situated in the World Exposition area as defined by Law No. 75 of 1991 concerning the World Exposition to be organized in 1996."*

(3) The following provision shall replace Paragraph 18. Section (1) Subsection (c) of Law No. 1. of 1987 concerning land:

*(Management rights shall cease if)*

*"(c) The organ which exercises direction in its capacity as an owner revokes management right due to the termination or reorganization of management, or if the county executive revokes management rights in order to acquire the World Exposition area."*

The following sentence shall be added to Paragraph 18. Section (2) of Law No. 1. of 1987 concerning the land:

“... No indemnification shall be due for the loss of management rights, if such management rights have been revoked on the basis of Section (1) Subsection (c).”

(4) Paragraph 4. Section (1) of Decree With the Force of Law No. 24. of 1976 concerning expropriation shall be amended by adding the following Subsection (q):

*(Real property may be expropriated for the following purposes)*

“(q) The World Exposition to be organized in 1996, as provided for under separate law.”

[Signed:]-Arpad Goncz, president of the Republic  
Gyorgy Szabad, president of the National  
Assembly

### **Law on Employment, Unemployment**

*92EP0121A Warsaw RZECZPOSPOLITA (ECONOMY AND LAW supplement) in Polish 25 Nov 91 pp VII-VIII*

[“Law On Employment and Unemployment Dated 16 October 1991”; took effect on 1 December 1991]

[Text]

#### **Chapter 1. General Provisions**

Article 1.1. The present law sets forth the tasks of the state in the area of employment, counteracting unemployment, and mitigating its consequences.

2. The law does not apply to individuals looking for employment and accepting it within the framework of labor relations. The provisions of the law apply accordingly to those accepting employment on the basis of a contract for take-home work or agency agreement.

Article 2.1. Whenever the law makes a reference to:

- 1) an enterprise—an enterprise as interpreted in the Labor Code is meant, as well as an individual hiring employees for gainful employment,
- 2) employment organs—proper territorial organs of specialized government administration are meant;
- 3) minimal wage—the minimal wage of employees, released by the minister of labor and social policy in the Official Gazette of the Republic of Poland MONITOR POLSKI pursuant to other regulations is meant,
- 4) average wage—the average monthly wage of employees in the socialized sector in the previous quarter, beginning from the day of its release by the chairman of the GUS [Central Office of Statistics] in the Official Gazette of the Republic of Poland MONITOR POLSKI pursuant to regulations on retirement benefits for employees and their families is meant,
- 5) projected average wage—the projected average monthly wage of employees in the socialized sector, released by the chairman of the GUS in the Official Gazette of the Republic of Poland MONITOR POLSKI pursuant to other regulations is meant,
- 6) wages—except as provided in Paragraph 5, monthly wages received at the last enterprise, calculated on the basis of guidelines established for the monetary equivalent for leave, excepting remunerations for working overtime, are meant,
- 7) benefits—unemployment benefits are meant,
- 8) training benefits—benefits paid to the unemployed during vocational training or retraining are meant,
- 9) unemployed—a person capable of working and prepared to accept full-time employment within the framework of labor relations, and left without a job, who does not go to school, with the exception of night and correspondence schools if he embarked on studies at a night or correspondence school while employed, and who is registered by the regional labor office with jurisdiction over the place of his residence, is meant, provided that:
  - a) he is over 18, except as provided in Point 13, Letters b) and c), and except in cases in which a labor contract for the purposes of vocational training with a minor is terminated by reasons involving the enterprise,
  - b) a woman is under 60, and a man is under 65,
  - c) he has not become entitled to retirement benefits,
  - d) the person in question, or his/her spouse, is not an owner or proprietor (independent or dependent) of a farm with an area of farmland over one conventional hectare, or a farm which amounts to a special sector of agricultural production as interpreted by tax regulations, except if the size of the agricultural tax on this farm does not exceed the size of the agricultural tax on one conventional hectare,
  - e) he does not engage in non-agricultural economic operations, or is ineligible for public benefits by virtue of other operations, except as provided by Letter d),
  - f) being handicapped, he may accept at least half-time employment if his health condition so warrants,
- 10) an additional place of employment—a job created by an enterprise at the request of an employment organ and allocated for the registered unemployed is meant,
- 11) assistance work—the performance of work provided for the unemployed by an employment organ at an enterprise for a period not longer than six months is meant,
- 12) graduates of higher schools—graduates of the full-time divisions of higher schools within 12 months from the day of graduation are meant;
- 13) graduates of vocational and general schools—the following is meant:
  - a) graduates of secondary vocational schools for nonworking individuals, including post-secondary school studies, general secondary schools, and other secondary schools, as well as basic vocational schools within 12 months from graduating from the schools,
  - b) graduates of special primary schools within 12 months from graduating from the schools,

- c) handicapped individuals within 12 months from the day of acquiring the right to practice a certain occupation who are looking for work for the first time,
- 14) foreigners—individuals who have neither Polish citizenship nor permanent residence permits are meant,
- 15) appropriate work—work is meant for which the unemployed have professional training, or may perform after prior training or change of profession, if this work is appropriate from the point of view of the health condition of the unemployed, and the total time of commuting to and from work by public transit does not exceed three hours,
- 16) public works—the performance, by the unemployed, of work organized by the organs of a gmina or local organs of state administration which, in particular, promotes socio-economic development, is meant.

2. Provisions concerning the unemployed also apply accordingly to individuals:

- 1) maintaining a labor relationship with the number of hours worked no higher than one-half of the official number of hours and generating wages per month which are no higher than one-half of the minimal wage, for reasons involving the enterprise,
- 2) drawing income from performing any gainful work on a basis other than the labor relationship if such incomes per month do not exceed one-half of the minimal wage.

3. The time graduates spend in compulsory or periodic military service, military training of the graduates of higher schools, or compulsory service in civil defense or alternative service is added to the periods referred to in Paragraph 1, Points 12 and 13, Letter a).

4. Medical examinations with a view to establishing the ability of the unemployed to work are administered by health care establishments at the request of regional labor offices.

5. The provisions of Paragraph 1, Point 5 do not apply to the remunerations referred to in Article 25, Point 3.

## Chapter 2. Employment Organs and Councils

Article 3.1. The Labor Office is set up as the central office of state administration reporting to the minister of labor and social policy.

2. The chief of the office is appointed and recalled by the chairman of the Council of Ministers at the request of the minister of labor and social policy which is reviewed by the Main Employment Council.

3. The minister of labor and social policy determines by an executive order the organization, specific guidelines, and scope of operations of the Labor Office and regional labor offices.

Article 4.1. The tasks set forth in the present law are accomplished by the minister of labor and social policy with the assistance of the Labor Office and voivodship and regional labor offices reporting to him.

2. Within the area specified in the law, the minister of labor and social policy provides oversight and coordinates the operation of other organs, institutions, and individuals.

Article 5. In particular, the following are the responsibilities of the chief of a voivodship labor office:

- 1) coordinating the operation of regional labor offices in the territory of the voivodship, establishing the number of, and the territorial jurisdiction of, regional labor offices, upon soliciting the opinion of the voivode,
- 2) preparing studies and evaluations on the issues of employment in the voivodship for use by the minister of labor and social policy and employment councils,
- 3) cooperating with the voivodship employment council in taking measures aimed at preventing the consequences of layoffs which are unfavorable for employees, and mitigating these consequences, especially securing appropriate jobs, vocational training or retraining of the unemployed, and creating jobs for the handicapped,
- 4) developing proposals for Labor Fund plans and preparing reports on the use of the moneys of the Fund,
- 5) distributing the moneys of the Labor Fund specifically among regional labor offices and monitoring the use of these moneys,
- 6) accepting notifications from individuals taking jobs abroad on the basis of individual contracts with foreign employers,
- 7) issuing permits for the employment of foreigners by enterprises and individuals, taking into account the situation in the labor market,
- 8) organizing job placement on an inter-voivodship scale,
- 9) accomplishing tasks set forth in regulations on the employment and professional rehabilitation of the handicapped,
- 10) cooperating with the voivodship organ of special government administration for the issues of education on planning and taking measures in the field of vocational training or retraining of the unemployed, and on organizing professional training.

Article 6. In particular, the following are the duties of the chief of a regional labor office:

- 1) providing assistance in finding employment to the unemployed and individuals looking for work, as well as to enterprises in finding employees,
- 2) taking measures aimed at preventing the unfavorable consequences of layoffs and mitigating such consequences, especially securing appropriate jobs and organizing vocational training or retraining,
- 3) registering the unemployed and individuals looking for work, making offers of work, training or retraining, assistance work, and public works, and in the event such opportunities are absent, paying benefits to the unemployed,
- 4) sponsoring and financing vocational training or retraining of the unemployed and paying them training benefits,
- 5) sponsoring the creation of additional jobs at enterprises and providing assistance to them in embarking on economic operations,
- 6) sponsoring and financing assistance work,
- 7) sponsoring and financing public works,
- 8) offering professional orientation to the unemployed and individuals looking for work,
- 9) financing compensatory bonuses for those who are covered by regulations on special procedures for dissolving labor relationships with employees for reasons concerning the enterprise,
- 10) financing the wages of minors employed by enterprises on the basis of labor contracts aimed at vocational training, and the social security contributions of such employees,
- 11) financing monetary equivalents due to non-working students of vocational schools during practical vocational training in school workshops or enterprises on the basis of a contract between the school and an enterprise, and additional payments and bonuses due to employees supervising training on the job by students,
- 12) issuing credit vouchers to the unemployed sent to work outside of their permanent place of residence,
- 13) cooperating with regional employment councils in the field of counteracting the negative consequences of unemployment, in particular in distributing financing from the Labor Fund.

Article 7.1. The Main Employment Council is set up under the minister of labor and social policy as a consultative and advisory organ on issues of employment.

2. In particular, the following fall within the scope of operations of the Main Employment Council:

- 1) reviewing draft legal acts pertaining to employment, and proposing to issue or amend regulations in effect,
- 2) reviewing the plans of the Labor Fund and annual reports on its operation,
- 3) making findings with regard to purchasing shares or bonds, or making capital contributions to companies from the moneys of the Labor Fund, as well as with regard to the Labor Fund obtaining credit and loans,
- 4) sponsoring measures aimed at full and rational employment,
- 5) submitting periodical information on its operation and the operations of local employment councils to the minister of labor and social policy.

Article 8.1. Voivodship employment councils are set up under voivodes as consultative and advisory organs.

2. Specifically, the following fall within the scope of operations of voivodship employment councils:

- 1) reviewing employment trends in the voivodship,
- 2) evaluating the effectiveness of managing the moneys of the Labor Fund,
- 3) reviewing draft financial plans prepared by voivodship labor offices and reports on their implementation,
- 4) sponsoring measures aimed at full and rational employment in the voivodship,
- 5) evaluating periodical reports on the operation of the voivodship and regional labor offices and submitting periodical reports and recommendations on the issue of employment to the Main Employment Council,
- 6) reviewing criteria for extending and writing off loans from the Labor Fund and for providing credit,
- 7) reviewing the candidacy of the chief of the voivodship labor office and initiating a recall of the chief,
- 8) delegating a representative to the search commission if the chief of a voivodship labor office is nominated on a competitive basis.

Article 9.1. Regional employment councils are set up at regional labor offices as consultative and advisory organs.

2. The provisions of Article 8, Paragraph 2 apply to the scope of operations of the regional employment councils accordingly.

Article 10.1. The Main Employment Council consists of 24 persons representing, in equal numbers, national inter-trade union organizations and national trade unions representative of the employees of a majority of enterprises, organizations of employers, organs of state administration, and territorial self-government.

2. Voivodship employment councils consist of 16 persons representing, in equal numbers, organizations of trade unions operating in the voivodship, those of employers, organs of state administration, and territorial administration. The voivode is the chairman of the voivodship employment council.

3. Regional employment councils consist of 12 persons representing, in equal numbers, organizations of trade unions operating in the region, those of employers, organs of government administration, and territorial self-government. The head of the regional organ of the general government administration is the chairman of the regional employment council.

4. Members of the Main Employment Council and the voivodship employment councils are appointed by the minister of labor and social policy; members of regional employment councils are appointed by the voivodes. The term of office for their members is four years.

5. The minister of labor and social policy shall set forth by an executive order the organization and mode of operation of the Main Employment Council. The organization and mode of operations of voivodship and regional councils shall be set forth by voivodes.

6. An enterprise has a duty to give an employee time off in order to attend a meeting of the Main Employment Council, or voivodship or regional employment council.

### Chapter 3. Job Placement and Professional Orientation

Article 11.1. Job placement consists of providing assistance to the unemployed and those looking for work in obtaining appropriate employment, and providing assistance to enterprises in finding appropriate employees.

2. Job placement is performed by regional labor offices. Job placement is performed free of charge, and is based on the following principles:

- 1) access to job placement services for all individuals looking for work, and for all enterprises,
- 2) voluntary nature, which means the use of job placement services by both sides free of coercion,
- 3) equality—which means the duty of regional labor offices to provide assistance in finding employment to all individuals looking for work, regardless of their ethnic background, affiliation with political or public organizations, sex, religion, and other circumstances,

4) openness—which means that all vacant positions reported to the office should be brought to the attention of the unemployed and those looking for work.

3. Enterprises must inform regional labor offices with jurisdiction over the location of the enterprise about all vacant jobs and positions for vocational training on a current basis.

Article 12.1. Regional labor offices register the unemployed and other individuals looking for work, and maintain the registration cards of such individuals.

2. The unemployed must report to the proper regional labor office at the appointed time, at least once a month, and whenever summoned, in order to confirm their readiness to work and obtain information on opportunities for training, acquiring a profession, or retraining.

Article 13.1. If it is impossible to provide appropriate employment for the unemployed, regional employment offices:

- 1) sponsor vocational training or retraining of the unemployed and pay training benefits for the duration of this training or retraining, as well as finance such operations,
- 2) sponsor the creation of additional jobs at enterprises and provide financial assistance to them in this sphere,
- 3) sponsor and finance assistance work to the extent provided for in the present law,
- 4) sponsor and finance public works to the extent provided for in the present law,
- 5) provide loans and assistance in obtaining credit to embark on economic operations,
- 6) grant and pay out unemployment benefits.

Article 14.1. Regional labor offices sponsor vocational training or retraining of the unemployed with a view to improving their odds of getting jobs, improvement of professional skills to date, or increases in professional activity, in particular in cases of:

- 1) lack of professional skills,
- 2) the need to change skills in view of the lack of job offers in line with one's skills and health status,
- 3) the loss of ability to perform work in a profession to date.
2. At the request of an unemployed individual, the labor office refers him to vocational training or retraining, if the type of such training guarantees finding work, and if one of the conditions referred to in Paragraph 1 has been met.
3. Vocational training or retraining should not last longer than six months. Regional labor offices may extend this

period to 12 months in cases when this is justified by the curriculum for a given occupation.

Article 15.1. Training benefits amount to 80 percent of wages, and to 100 percent of wages for individuals who lost their ability to perform their work to date as a result of a labor-related accident, an accident on the way to or from work, or an occupational disease.

2. Training benefits cannot be lower than 40 percent of the amount of the projected average wage, except as provided by Paragraphs 3 and 4, nor can they exceed 110 percent of this wage.

3. The amount of training benefits for the unemployed whose labor relations with the last enterprise were dissolved without notice by their fault, or whose labor contracts expired as a result of abandoning work, comes to 33 percent of the amount of the projected average wage.

4. The amount of training benefits for graduates, the individuals referred to in Article 2, Paragraph 1, Point 9, Letter a) and the individuals who were covered by social security by virtue of other non-agricultural operations comes to 115 percent of unemployment benefits due to such persons.

5. The unemployed who are not entitled to benefits, except as provided by Article 34, Point 3, and are referred to vocational training or retraining are not entitled to training benefits. Regional labor offices referring such unemployed for training are responsible for the costs of their training and insurance.

6. The training benefits which have been referred to in Paragraph 1 are increased continuously, beginning with the next quarter, after the release of the average wage, by the percentage of increase of this wage.

7. The unemployed who for no valid reason discontinue training must repay its cost, and become entitled to benefits if they meet the conditions set forth in Article 20, Paragraph 1, Point 2.

8. Individuals collecting training benefits are entitled to the following, along the guidelines in effect for employees:

- 1) family, attendance, and funeral allowances,
- 2) benefits by virtue of work-related accidents and occupational diseases,
- 3) services by health care establishments which are provided on the basis of an entry on the insurance certificate made by the regional labor office.

9. Training benefits are also due for documented periods of inability to work which social security benefits would cover in the event of sickness or maternity.

10. The benefits referred to in Paragraph 8, Point 1 and training benefits paid on the terms set forth in Paragraph

9 are included by regional labor offices in contributions for social security, through procedures established for such contributions.

11. The benefits set forth in Paragraph 8, Point 3 are also due to members of the family of the person collecting training benefits along the guidelines provided for the family members of employees, on the basis of an entry on the insurance certificate made by the regional labor office.

12. Regional labor offices may finance, with moneys of the labor fund, the costs of vocational training or retraining of the employees referred to in Article 16, Paragraph 1, Point 2.

Article 16.1. Regional labor offices may provide loans from the Labor Fund:

- 1) to enterprises in order to create additional jobs for the unemployed referred to these jobs;
- 2) on a one-time basis, to the unemployed and to employees, during a period of notice, who are being laid off on the basis of regulations on special procedures for dissolving the labor relations with employees for reasons concerning the enterprise, to begin economic operations.
2. The amount of the loans referred to in Paragraph 1 shall not exceed 20 times the average wage.
3. The enterprise referred to in Paragraph 1, Point 1 must create additional jobs before the deadlines set in the loan contract, and must employ the unemployed assigned there for at least 24 months.
4. Fifty percent of loans to the individuals referred to in Paragraph 1, Point 2 may be written off at the request of the borrowers if economic operations are conducted for at least 24 months.
5. Terms for the provision of loans, interest rates, and repayment terms are set forth in contracts signed by regional labor offices and borrowers, in keeping with guidelines set forth by an executive order of the minister of labor and social policy.
6. Lists of enterprises and individuals to whom loans have been extended are available for public review in regional labor offices.

Article 17.1. Regional labor offices refund to enterprises a portion of outlays on paying wages associated with the employment of the unemployed in assistance work, in the amount not exceeding the benefits due them, and for social security contributions from these wages, for a period of six months. If the unemployed are not entitled to benefits, wages in the amount of the minimal benefit and contributions on this amount are refunded.

2. If an enterprise continues to employ a referred unemployed individual for at least six more months, signing an indefinite labor contract, the regional labor office

refunds to this enterprise a portion of wages paid during this period of time in the combined amount of one average wage and social security contributions from this wage, after this period ends.

3. A regional labor office referring an unemployed individual to assistance work must take into account his age, the condition of his health, and the type of work previously done.

Article 18.1. At the request of a sponsor of public works, the wage of an unemployed individual referred by the regional labor office and employed doing such work, is financed from the Labor Fund at a rate not exceeding 75 percent of the average wage per each person referred and employed, and social security contributions from this wage.

2. The provision of Article 17, Paragraph 3 applies accordingly.

Article 19. The minister of labor and social policy shall set forth guidelines for organizing assistance work and public works in an executive order.

Article 20. 1. The unemployed are entitled to benefits for each calendar day from the day of registration at the proper regional labor office if:

- 1) there are no offers of appropriate employment for them, no offers to train or retrain, no referrals to assistance work or public work, or no additional jobs created, and
- 2) in the 12 months preceding the day of registration, they maintained labor relations or service relations for at least 180 days, or were covered by social security by virtue of other non-agricultural operations for at least 180 days.

2. The condition set forth in Paragraph 1, Point 2 does not apply to unemployed:

- 1) individuals with whom labor relations were terminated on the basis of regulations on special guidelines for dissolving labor relations with employees for reasons concerning the enterprise and who were registered within six months from the day labor relations were dissolved.
- 2) graduates,
- 3) individuals discharged from compulsory or periodic military service, military service in the capacity as candidate professional serviceman, military training for higher school graduates, compulsory service in civil defense or alternative service who were registered within three months after the day they were discharged from the service,
- 4) individuals after child attendance leave, registered within six months from the day the child attendance leave ended,

5) individuals whose right to annuities, rehabilitation services, and disability or maternity allowances ceased, and who were registered within six months after the right to these benefits ceased,

6) individuals released from corrections facilities and registered within three months from the day of release from the facility, if in the 12 months preceding their incarceration they met the condition referred to in Paragraph 1, Point 2, or worked when they served time for at least 180 days,

7) who, after a period of collecting benefits or training benefits, started working but for reasons concerning the enterprise did not work for 180 days, if they register within seven days of the dissolution of the labor contract at the proper regional labor office; this also applies to the unemployed who embarked on assistance work or public works.

3. Benefits amount to:

- 1) 70 percent of wages for the first three months of collecting the benefit,
- 2) 50 percent of wages for the six subsequent months,
- 3) 40 percent of wages after the passage of nine months.

4. Benefits cannot be smaller than 33 percent of the amount of the projected average wage, except as provided by Paragraph 11, and cannot exceed the amount of this wage.

5. The amount of benefits is set on each occasion, beginning from the day the projected average wage is released.

6. Benefits for the unemployed who were covered by social security by virtue of other non-agricultural operations for at least 180 days prior to the day of registration, are set proceeding from the amount of the base for calculating social security contributions.

7. Unemployed graduates are entitled to benefits amounting to 33 percent of the projected average wage after three months pass from the date of their registration.

8. The unemployed referred to in Paragraph 2, Points 3, 4, and 6 are entitled to benefits amounting to 33 percent of the projected average wage; benefits for the unemployed referred to in Paragraph 2, Point 5 are calculated on the basis of benefits due for the month preceding registration, taking into account the provisions of Paragraphs 3 and 4.

9. The average wage on the day of registration is used as the base to calculate the benefit and training benefit for an unemployed individual who, prior to registration, was employed abroad within the framework of the export of construction projects and services associated with exports.

10. An unemployed individual becomes entitled to a benefit amounting to 33 percent of the projected average wage if:

- 1) the labor contract at the last enterprise was dissolved without notice through his fault, or expired due to his abandoning the job,
- 2) he discontinued training in a profession, or retraining, without a valid reason.

11. A minor whose labor contract aimed at vocational training is dissolved for reasons concerning the enterprise (Article 2, Paragraph 1, Point 9, Letter a), as well as the individuals referred to in Article 2, Paragraph 1, Point 13, Letters b) and c) are entitled to benefits amounting to 11 [as published] percent of the projected average wage.

12. The unemployed collecting benefits are entitled to the services referred to in Article 15, Paragraph 8, Points 1 and 3, and Paragraph 9, and members of their families are entitled to the services referred to in Article 15, Paragraph 8, Point 3.

13. The services referred to in Paragraph 12 are also due graduates and members of their families during the period of three months referred to in Paragraph 7.

Article 21.1. Benefits are paid monthly in arrears. The benefits are determined by dividing the amount of the benefits due, by 30 days and multiplying by the number of calendar days in the period for which the benefits are due.

2. The duration of benefit collection may not exceed 12 months, except as provided in Paragraphs 3, 4, and 5.

3. The unemployed who, before the day of registration, maintained labor relations or service relations for at least 25 years (for women), and 30 years (for men), retain the right to benefits for a period of up to 18 months.

4. If a woman collecting benefits gives birth to a child during the period referred to in Paragraphs 2 and 3, or within one month from the time it ends, the time for which the woman would be entitled to maternity benefits under other provisions is added to this period.

5. The following unemployed retain the right to benefits until they become entitled to retire:

- 1) those who maintained labor relations or service relations for at least 30 years (for women) and 35 years (for men),
- 2) those who performed work recognized by retirement regulations to be employment under special conditions for at least 15 years in the periods referred to in Paragraph 3,
- 3) those who are no more than two years away from qualifying for retirement benefits,
- 4) those mentioned in Article 25, Point 2.
6. The unemployed qualify for benefits again if they meet the conditions set forth in Article 20, Paragraphs 1 and 2.
7. An unemployed individual who was trained in a profession or retrained, is entitled to benefits for a period of 12 months following the period of training or retraining if a regional labor office has no appropriate job offers for him, or offers of assistance work or public works.
8. Regional labor offices issue rulings on granting the right to benefits to the unemployed or the loss of this right.
9. A person qualifying for benefits or training benefits is entitled to statutory interest payments if a regional labor office does not make a determination concerning the right to them or does not pay them within deadlines envisaged for granting or paying such benefits, counting from the day the person in question filed the documents required.

Article 22.1. The following unemployed are not entitled to benefits:

- 1) those failing to report to regional labor offices at the appointed time without a valid reason,
- 2) those who refused twice, and without a valid reason, to accept offers of appropriate work, training in an occupation or retraining, or to take part in assistance work or public works,
- 3) those staying abroad or in another setting which makes them unprepared to embark on working; the unemployed must inform the labor office about going abroad,
- 4) those who have abandoned their jobs causing labor contracts to expire, or those with whom the labor contract was terminated without notice and through their fault,
- 5) those who refuse to submit to medical examinations aimed at determining their ability to work,
- 6) those who took out loans or credit to embark on economic operations,
- 7) those under temporary arrest,
- 8) those who obtained incomes within one month which exceed one-half of the minimal wage,
- 9) those in compulsory or periodical military service, military service in the capacity of a candidate to be a professional serviceman, military training for graduates of higher schools, or compulsory service in civil defense or alternative service,
- 10) those who collect disability benefits, family allowances, rehabilitation allowances, or have received remunerations, or indemnities in the amount of

remuneration, after labor relations ended, or salaries and severance pay upon the termination of service relationships,

- 11) those who receive child attendance benefits upon the termination of labor or service relations,
- 12) those who belong to the same household as a spouse who receives income exceeding twice the average wage; this does not apply to cases in which the income per family member is less than 33 percent of the average wage; such incomes are determined on the basis of confirmations by the enterprise or office in question.

2. The unemployed individual referred to in Paragraph 1 becomes entitled to benefits, except as provided by Article 20, Paragraph 1, Point 2:

- 1) after 90 days have elapsed from the date of his repeat application to the regional labor office—in the cases referred to in Paragraph 1, Points 1 and 2,
- 2) from the day of reporting to the regional labor office—in the case referred to in Paragraph 1, Point 3,
- 3) after 90 days have elapsed from the date of his registration in the regional labor office—in the case referred to in Paragraph 1, Point 4,
- 4) from the date of filing medical findings on his ability to work with the regional labor office—in the case referred to in Paragraph 1, Point 5,
- 5) upon repaying a loan or credit, and getting registered with the regional labor office—in the case referred to in Paragraph 1, Point 6,
- 6) from the date the circumstances ceased to exist—in the cases referred to in Paragraph 1, Points 7, 9, and 12,
- 7) in the month following the one in which he received wages—in the case mentioned in Article 2, Paragraph 2, Point 1,
- 8) upon the end of a period equal, in terms of the number of months, to the quotient of the net income received and the minimal wage—in the case referred to in Article 2, Paragraph 2, Point 2,
- 9) from the date of registration with the regional labor office upon the expiration of the right to benefits, or upon the ending of a period for which benefits have been paid—in the case referred to in Paragraph 1, Points 10 and 11.

3. The unemployed individuals receiving benefits must file a statement on their failure to receive wages or income exceeding the limit set in Paragraph 2, Points 7 and 8, at the regional labor office on a monthly basis. A failure to file the statement will result in the loss of the right to benefits.

Article 23.1. An unemployed individual who has collected without title monetary benefits set forth in the present law must pay them back within 14 days from the date of being advised of the decision of the regional labor office.

2. The following are considered benefits received without title for the purposes of Paragraph 1:

- 1) benefits paid despite existing circumstances causing the title to the benefits to expire, or causing the amount of benefits to be reviewed if the unemployed individual collecting benefits has been instructed about such circumstances,
- 2) benefits paid on the basis of false statements or forged documents, or in other cases in which the unemployed individual deliberately misleads the regional labor office.

3. The return of benefits collected without title for a period longer than 12 months cannot be requested.

4. At the request of the unemployed, the regional labor office may postpone the return of the benefits collected without title for a period of no more than two years, and in exceptional cases give up the demand to return these benefits based on a particularly difficult financial or family situation of the unemployed, or circumstances beyond his control.

5. The amounts of benefits received without title which were referred to in Paragraphs 1 through 3 shall be collected through the procedures envisaged by regulations on executive proceedings in administration.

Article 24.1. The duration of collecting benefits referred to in Articles 15 and 20 counts toward the periods of work required to qualify for or maintain employee entitlements and toward periods of employment for the purposes of regulations on retirement benefits for employees and their families.

2. However, the duration of collecting benefits is not counted toward:

- 1) periods of maintaining labor or service relations, or being covered by social security which are referred to in Article 20, Paragraph 1, Point 2,
- 2) periods of work on which qualifying for a leave is based,
- 3) the tenure of work set forth in other regulations which is required to practice certain professions.

Article 25. Individuals to whom regulations on special guidelines for dissolving labor relations with employees for reasons concerning the enterprise apply are entitled to:

- 1) training benefits amounting to 100 percent of the wage, not exceeding the projected average wage

during the period of training in a profession or retraining, taking into account the provision of Article 15, Paragraph 6,

- 2) benefits amounting to 75 percent of the wage calculated in keeping with the guidelines for calculating the base for retirement benefits and annuities set forth in regulations on retirement benefits and annuities paid by social security, but not below the minimal wage; the benefits are due to individuals who are, or will be, over 55 years of age in the case of women, or 60 years in the case of men, in the calendar year in which labor or service relations were terminated, and who have worked for at least the minimal period of time needed to qualify for retirement benefits if there are no offers of appropriate work for these unemployed persons; Article 15, Paragraph 6, Points 1 and 3, and Article 22, Paragraph 1, Point 8 applied accordingly;
- 3) compensatory bonus paid for a period no longer for three months if an employee is trained in a profession or retrained, amounting to the difference between the training benefits and the wage at the new enterprise; the amount of the last training benefit paid, increased along the guidelines set forth in Article 15, Paragraph 6, is used to determine the size of the bonus.

Article 26. Enterprises employing the graduates of higher schools, vocational schools, or general schools are exempted from establishing contributions to Labor Fund, taxes on wages, on remunerations, and on the growth of remunerations based on the remuneration of such graduates for a period not longer than 12 months from the date of hiring a graduate referred by the regional labor office.

Article 27. The regional labor office may allocate to an enterprise that hires a graduate of a higher, vocational, or general school referred by this organ, a refund of wages paid to the above graduate in the amount not exceeding the size of the benefits which this graduate would be entitled to, and social security contribution on this amount, if the employment of the graduate at this enterprise is expected to last longer than 12 months.

Article 28. The amounts of calculated benefits and training benefits for the period they are due are rounded up to the full 1,000 zlotys.

Article 29. 1. Voivodship and regional labor offices offer professional orientation and counseling with a view to aiding minors who are not studying and candidates for work who are of full age specialized assistance with a choice of profession, retraining, or finding employment.

2. Professional orientation consists of instructing minors or persons of full age to engage in appropriate work, choose a profession, or retrain.

3. Professional counseling consists of giving advice based on specialized medical, psychological, and pedagogical examinations.

4. Voivodship and regional labor offices may commission duly authorized units to perform specialized psychological testing.

5. Health service facilities issue medical findings for the needs of professional counseling.

6. The costs of psychological, pedagogical, and medical testing may not be borne by the unemployed.

Article 30.1. In voivodships (regions or gminas) in which the number of the unemployed does not exceed two percent of the total number of those employed, the Council of Ministers may, by an executive order, reduce the duration of collecting benefits to three months for all or some groups of the unemployed; the Council of Ministers may also abolish the right to benefits of those who collect the benefits referred to in Article 25, as well as restrict or abolish the benefits specified in Article 16.

2. The Council of Ministers may, by an executive order, restrict the right to collect to periods other than the appropriate season in areas in which extensive seasonal work is performed.

3. By an executive order, the Council of Ministers may extend the duration of benefit collection in administrative areas with particularly pronounced unemployment.

Article 31.1. The minister of labor and social policy shall set forth specific guidelines for the following by an executive order:

- 1) job placement, professional orientation and counseling,
- 2) registration and records of the unemployed and individuals looking for work,
- 3) granting of the benefits specified in the present law,
- 4) establishment of procedures for collecting contributions to the Labor Fund from individuals covered by social security on account of other non-agricultural operations.

2. The minister of labor and social policy may:

- 1) appoint commissioners for accomplishing some tasks set by the present law,
- 2) authorize other organs, organizations, or individuals to perform job placement, setting forth guidelines, conditions, the term of validity of the authorization, the extent of performing job placement and associated duties, and the amount of tariff fees collected from enterprises.

3. If the terms and duties included in the authorization referred to in Paragraph 2, Point 2 are not complied

with, the minister of labor and social policy may revoke the authorization before the expiration of its term of validity.

**4. Offering job placement for profit is forbidden.**

**Chapter 4. Benefits Due to Laid-Off Farmers**

Article 32. Individuals covered by social security for farmers who have been laid off for reasons concerning the enterprise and are not entitled to unemployment benefits under the law, are entitled to benefits on the terms, and to the extent specified in the present chapter.

Article 33. The individuals referred to in Article 32 are entitled to the benefits set forth in Article 34 if:

- 1) for 12 months prior to the day of filing a petition for the benefits, they maintained labor relations for at least 180 days, and these relations were dissolved for reasons concerning the enterprise,
- 2) the tax on the farm or special sector does not exceed the amount of the agricultural tax on five conventional hectares, or does not exceed the amount of the agricultural tax on one conventional hectare per one member of the household who does not have continuous non-agricultural sources of support.

Article 34. The benefits include:

- 1) the payment of contributions for the social security of farmers for individuals with whom labor relations were dissolved for the first four quarters after dissolution, with the exception of the period for which the training benefits are collected,
- 2) training in an occupation or retraining with a view to obtaining employment or beginning economic operations outside of the farm,
- 3) training benefits in conjunction with such training or retraining in the amount of two-thirds of the benefits set forth in Article 25, Point 1,
- 4) benefits by virtue of labor-related accidents and occupational diseases while taking such training or retraining,
- 5) the one-time loan referred to in Article 16 for embarking on non-agricultural business operations, including manufacturing or service operations associated with agriculture.

Article 35. The payment of contributions envisaged by Article 34, Point 1 consists of transferring amounts due in individual quarterly installments from the Labor Fund to respective funds of social security for farmers on the basis of a decision by the head of the appropriate regional labor office made at the request of the farmers whose duty it is to pay contributions. This benefit applies beginning with the next quarterly installment which falls due after the day on which labor relations are dissolved.

**Chapter 5. Employment in Volunteer Labor Brigades**

Article 36.1. Volunteer labor brigades also accomplish tasks in the area of employment.

2. The Volunteer Labor Brigades are state organizational units supervised by the minister of labor and social policy.

Article 37. Specifically, the following are among the tasks of the Volunteer Labor Brigades:

- 1) organizing the employment of young people,
- 2) providing conditions for acquiring and improving professional and general skills and the vocational retraining of young people,
- 3) providing assistance to young people whose upbringing has been neglected, and who need special care.

Article 38. Members of the Volunteer Labor Brigades are employed in keeping with the guidelines set forth in the Labor Code.

Article 39. The Council of Ministers shall set forth, by an executive order, specific tasks, organization, and guidelines for financing and supervision of the Volunteer Labor Brigades as well as the tasks of the government general administration and state organizational units with regard to providing conditions for the operation of the Volunteer Labor Brigades.

**Chapter 6. Benefits Due to Individuals Accepting Employment Outside of the Place of Residence to Date**

Article 40.1. The appropriate organ of territorial self-government may provide the following to individuals who accept work requiring that they change their place of residence to date:

- 1) one-time loan for the set-up cost,
- 2) a loan for their own contribution on which obtaining credit under regulations on general guidelines for the provision of credit for housing construction hinges, unless the enterprise provides an apartment.
2. A regional labor office refunds to the organ of territorial self-government one-fourth of the loan referred to in Paragraph 1.1, but not exceeding three times the average wage, after the borrower has worked for at least twelve months.
3. The loan referred to in Paragraph 1.1 is written off after [the person employed] has worked in the locality in question the length of time set forth when the loan was extended by an organ of territorial self-government.

Article 41. A regional labor office issues to a person assigned to work outside the place of permanent residence, a credit voucher for moving to the place of future employment by the most inexpensive means of public transportation.

**Chapter 7. Employment of Polish Citizens Abroad by Foreign Employers and the Employment of Foreigners in Poland**

Article 42. Polish citizens are employed abroad by foreign employers on the basis of:

- 1) international agreements,
- 2) agreements signed by authorized management units with Polish citizens who are assigned by these units to work abroad for foreign employers,
- 3) agreements signed by Polish citizens with foreign employers.

Article 43.1. The assignment of Polish citizens to work abroad for foreign employers occurs on the basis of permits issued to management units by the minister of labor and social policy. Such permits are not required for referrals to work abroad on the basis of regulations on college education or within the framework of contracts for the provision of artistic services and contracts with foreign broadcasting companies; the provisions of Article 31, Paragraph 2, Point 2 and Point 4 apply accordingly.

2. If conditions and duties resulting from the permit referred to in Paragraph 1 are not complied with, the minister of labor and social policy may revoke the permit before its validity expires.

3. The assignment for work abroad by management units is effected on the basis of contracts signed by these units and Polish citizens assigned to work abroad which specifically regulate:

- 1) the duration of employment abroad,
- 2) the duties of the individual assigned to work and of the management unit,
- 3) the refunding of costs entailed by the assignment to work abroad, in particular:
  - a) effecting formalities associated with traveling abroad,
  - b) insurance for those assigned against accidents and tropical diseases,
  - c) taking care of other business at the request of the person assigned to work abroad.

Article 44.1. The period of employment of Polish citizens abroad on the basis of the agreement referred to in Article 42, Point 2 is treated as a period of employment in Poland for the purposes of employee entitlements and in the interpretation of regulations on retirement benefits for employees and their families, on social security and family benefits, as well as monetary benefits in the event of labor-related accidents and occupational diseases, provided that contributions for social security and the labor fund are paid, unless international agreements provide otherwise.

2. The provision of Paragraph 1 applies accordingly to Polish citizens employed abroad on the basis of the agreements referred to in Article 42, Point 1.

Article 45. A management unit which provides employment on the basis of the agreements referred to in Article 42, Point 2 must transfer:

- 1) to the account of the Social Security Agency—social security premiums for each person assigned to work abroad calculated for the amount declared by the persons assigned, but no less than the average wage, in the amount established for the employees working in Poland,
- 2) to the Labor Fund—an amount equal to 12 percent of the average wage for each month social security is in effect for the individuals assigned to work abroad.

2. The provisions of Paragraph 1 do not apply to the employment of high school and college students during vacations.

Article 46.1. Unless an international agreement provides otherwise, the duration of work by Polish citizens abroad, on the basis of the agreements referred to in Article 42, Point 3, is treated, except as provided by Paragraph 2, as the duration of employment in the territory of Poland for the purposes of regulations on retirement benefits for the employees and their families, on social and family security, and on monetary benefits due to labor-related accidents and occupational diseases.

2. The periods referred to in Paragraph 1 are acknowledged on the condition that these periods are documented and social security premiums for the employees are paid in the amount established for employees working in Poland based on the declared amount, but no less than the average wage.

Article 47. The duration of documented employment abroad on the basis of the agreements signed by Polish citizens and foreign employers referred to in Article 42, Point 3 is treated as the duration of employment in Poland with regard to employee entitlements from the date the interested person reports accepting employment abroad with a foreign employer to the voivodship labor department with jurisdiction over his place of residence, and on the condition that monthly payments to the Labor Fund are made in an amount constituting 12 percent of the average wage.

Article 48. The amount declared as the base for the social security premium provides the base for calculating benefits and training benefits for individuals who return to the country after completing the work abroad which is referred to in Article 42.

Article 49. The minister of labor and social policy shall set forth by executive order:

- 1) procedures for making the payments referred to in Article 45, Paragraph 1, Point 2 and Article 47,

- 2) procedures for collecting the social security premiums which are referred to in Article 45, Paragraph 1, Point 1, Article 46, Paragraph 2, and Article 56, Paragraph 1, Points 2 and 5,
- 3) specific guidelines for qualifying for entitlements and procedures for the payment of social security benefits to Polish citizens in conjunction with working abroad for foreign employers.

Article 50.1. Enterprises or individuals may employ foreigners in the territory of the Republic of Poland or use their services at a fee if they obtain a permit from the voivodship labor office; in granting the permit, this office will take into account the situation in the labor market and the opinion of the voivodship employment council.

2. The permit referred to in Paragraph 1 is issued for the period of time indicated, to a specific foreigner working for the employer indicated. The permit also describes the type of work to be performed or the position held. It may be revoked by the issuing organ if this is required by the situation in the labor market.

3. The minister of labor and social policy, in coordination with the minister of finance, shall determine, by an executive order, procedures and guidelines for the employment of foreigners in providing export services offered by foreign units in Poland.

4. If other regulations condition the opportunity to practice an occupation on the consent of the appropriate organ to practice it, an enterprise must secure such consent before approaching the organ referred to in Paragraph 1.

5. The learned secretary of the Polish Academy of Sciences shall set forth conditions for the employment of foreigners in the establishments of the Polish Academy of Sciences.

6. The minister of public education shall set forth, in cooperation with proper ministers, conditions for employing foreigners in colleges, schools, and educational and upbringing facilities.

7. The provisions of Paragraphs 1 and 4 do not violate provisions regulating separate conditions for the employment of foreigners or containing a ban on the employment of foreigners.

#### Chapter 8. The Labor Fund

Article 51.1. A special-purpose state fund, henceforth referred to as the "Labor Fund," is hereby established.

2. The Labor Fund is managed by the minister of labor and social policy.

Article 52.1. Enterprises pay mandatory contributions to the Labor Fund calculated proceeding from the payments used as the basis for calculating social security premiums.

2. Individuals who are not enterprise employees but are entitled to social security and retirement benefits by virtue of other non-agricultural operations pay mandatory contributions to the Labor Fund proceeding from the amounts which are used as the basis for calculating social security or retirement premiums.

3. The size of the contribution referred to in Paragraphs 1 and 2 is specified in the budget law.

Article 54.1. The proceeds of the Labor Fund consist of:

- 1) mandatory contributions by enterprises and individuals covered by social security by virtue of other non-agricultural operations referred to in Article 52,
- 2) subsidies from the state budget for replenishing the moneys of the Labor Funds allocated for the payment of mandatory benefits when proceeds from the contributions referred to in Point 1 are used up,
- 3) proceeds by virtue of interest on deposits and holdings of the Labor Fund in companies,
- 4) profits by virtue of taking part in economic operations,
- 5) funds from other sources, on the basis of other regulations,
- 6) other proceeds.

2. The following also constitute proceeds of the Labor Fund:

- 1) payments made by units assigning Polish citizens who accept employment with foreign employers in the cases referred to in Article 45, Paragraph 1, Point 2 and Article 47,
- 2) payments made by foreign partners in the course of recruiting Polish employees working within the framework of international agreements.

3. The funds referred to in Paragraph 2, Point 2 are accumulated in the accounts of foreign exchange funds.

Article 55.1. Contributions to the Labor Fund are paid for the time social security is in effect, through the procedures and along the lines envisaged for social security and retirement benefit premiums. Contributions to the Labor Fund are collected by the Social Security Agency on a monthly basis, together with social security and retirement benefit premiums; the amounts collected as contributions are transferred to the Labor Fund before the 15th day of the following month.

2. The Social Security Agency collects interest for delay with regard to contributions to the Labor Fund which are not paid on time, along the lines and in the amount set forth in regulations on tax obligations. These contributions and amounts payable by virtue of interest for delay and the additional payments referred to in Paragraph 3, which are not paid on time, are subject to collection

through the procedures in the regulations on executive proceedings in administration.

3. If contributions to the Labor Fund are not paid, or paid in an amount smaller than due, the Social Security Agency may assess an additional payment coming to 100 percent of the amount of contributions due against an enterprise or an individual eligible for social security or retirement benefits by virtue of other non-agricultural operations.

Article 56.1. The moneys of the Labor Fund are earmarked to finance:

- 1) the cost of training in an occupation, or retraining, the unemployed or employees who are being laid off, which was referred to in Article 16, Paragraph 1, Point 2,
- 2) the training benefits referred to in Article 15 and Article 25, Point 1, and social security premiums,
- 3) the loans referred to in Article 16 and the cost of servicing them, guarantees for the repayment of the credit extended to individuals referred to in Article 16, to create new jobs, and the difference between the interest rate of refinancing credit and the preferential interest rate used for the borrowers referred to in Article 16,
- 4) the cost of wages paid to the unemployed assigned to assistance work and public works, and social security premiums,
- 5) the benefits referred to in Article 20 and Article 25, Point 2, and social security premiums of individuals collecting these benefits,
- 6) the repayment of loans along the lines set forth in Article 40, Paragraph 2,
- 7) the compensatory bonuses and wages referred to in Article 25, Point 3 and Article 27, and social security premiums established on this basis,
- 8) the credit vouchers referred to in Article 41,
- 9) compensatory bonuses paid to individuals covered by regulations on special guidelines for dissolving labor relations with employees for reasons concerning the enterprise and social security premiums,
- 10) preparation of centralized and voivodship vocational information and equipment for offering professional orientation and counseling,
- 11) wages paid to underage enterprise employees hired on the basis of a labor contract with a view to vocational training and social security premiums for these employees,
- 12) monetary equivalents paid to students of full-time vocational schools during practical training in an occupation, in school workshops or at enterprises,

on the basis on a contract signed between the school and the enterprise,

- 13) extra pay and bonuses paid to employees performing the duties of practical training overseers,
- 14) contributions made to companies,
- 15) purchases of shares or bonds,
- 16) benefits due to unemployed farmers laid off under regulations on special guidelines for dissolving labor relations with employees for reasons concerning the enterprise,
- 17) special-purpose deposits in banks and other institutions,
- 18) the cost of distributing financial benefits due to the unemployed,
- 19) research, expert reviews, and analyses concerning the labor market, and the introduction and development of a data processing system,
- 20) tasks associated with aiding the unemployed which are accomplished within the framework of statutory activities by organizations and institutions, upon consulting the Main Employment Council,
- 21) statutory interest for the failure to pay benefits to the unemployed on time.

2. The expenditures referred to in Paragraph 1, Points 11, 12, and 14, are financed from the Labor Fund up to the amount of the lowest payments set in separate regulations.

3. Upon consulting the Main Employment Council, and in cooperation with the minister of finance, the minister of labor and social policy may set forth uses, other than those referred to in Paragraph 1, for which the moneys of the Labor Fund may be earmarked.

4. The minister of labor and social policy sets forth the guidelines for financing the expenditures from the Labor Fund established in Paragraph 1, and guidelines for cooperation between the employment organs, and banks and financial institutions.

5. The payment of wages financed from the Labor Fund is not included in the base of taxation for the salary tax, the wage tax, and the tax on the growth of wages. Contributions to the Labor Fund are not paid from these wages.

Article 57. The profits of the Labor Fund is exempt from the profit tax.

Article 58. The provisions of the budget law on the management of special-purpose funds apply in cases not regulated by the present chapter.

### **Chapter 9. Penalties for Violating the Provisions of the Law**

Article 59.1. He who on behalf of an enterprise, or on his own, employs a foreigner without a permit in the territory of the Republic of Poland is liable to the penalty of a fine.

2. In the event the violation referred to in Paragraph 1 occurs, a ban on economic operations may be imposed.

3. He who engages in job placement without authorization or with a view to generating profits is subject to the same penalty.

Article 60. He who knowingly employs a person receiving benefits for at least a month, for a number of hours exceeding one-half of the worktime in effect, or pays benefits larger than one-half of the minimal wage, is subject to the penalty of a fine.

### **Chapter 10. Amendments of Existing Regulations, Provisional and Final Regulations**

Article 61.1. Benefits or training benefits granted to the unemployed before the day the present law takes effect are paid along the guidelines to date for a period of up to three months after the law takes effect, except if circumstances occur earlier which cause the loss of benefits.

2. The benefits referred to in Paragraph 1 are not subject to increases if the amount of the minimal or average wage, or that of the projected average wage, changes.

Article 62. The periods of collecting the benefits referred to in Article 21, Paragraphs 2 through 4 are counted from the date the present law takes effect.

Article 63.1. The voivodship and regional labor offices organized under Article 3 remain in the buildings of voivodship and regional labor bureaus operating on the day the law takes effect.

2. The employees of voivodship and regional labor bureaus become the employees of the voivodship and regional employment offices respectively, as of the day they are organized.

3. Leasing agreements signed by voivodship and regional labor bureaus apply to voivodship and regional labor offices for the period of time specified in these contracts.

4. The assets of voivodship and regional labor bureaus used for accomplishing the tasks of these bureaus, as of the day the law takes effect, are taken over by the voivodship and regional labor offices respectively, as of the day they are organized.

5. The voivodes and the heads of regional offices are obligated to provide conditions necessary for the labor offices to perform the duties entrusted to them.

Article 64. Until 1 January 1993, the tasks resulting from the present law are accomplished by the minister of labor

and social policy and voivodes with the assistance of the voivodship and regional labor bureaus directly subordinated to them.

Article 65.1. For the purposes of collecting the income tax on individuals, the employment organs will increase the benefits due for the month of January 1992 to individuals, which are based on wages set in keeping with the rates or amounts in effect prior to 31 December 1981, recalculating them so that, upon the withholding of the income tax, they are no less than the benefits for this month before the recalculation, except as provided by Paragraph 2.

2. Upon the recalculation referred to in Paragraph 1, the benefit cannot be higher than 125 percent of the benefit before the recalculation.

Article 66. In the law dated 28 December 1989 on specific guidelines for dissolving labor relations with employees for reasons concerning the enterprise, and on amendments to certain laws (DZIENNIK USTAW, 1990, No. 4, Item 19, No. 10, Item 59, and No. 51, Item 298, as well as 1991, No. 83, Item 372), Article 8, Paragraph 5 is amended to read:

“5. Compensatory bonuses are paid by the enterprise at which the employee worked for a period of no longer than six months from the day labor relations were dissolved for the reasons set forth in Article 1, Paragraphs 1 and 2, in the amount of the difference between wages in the previous and new enterprises. The amount of the compensatory bonuses may not exceed, in any month, the average wage announced by the chairman of the Central Office of Statistics on the basis of regulations on retirement benefits for employees and their families. Expenditures by virtue of this are made from the moneys of the Labor Fund.”

Article 67. In Article 6, Paragraph 2, Point 1 of the law dated 17 December 1974 on financial benefits paid by social security in the event of an illness or maternity (DZIENNIK USTAW, 1983, No. 30, Item 143; 1985, No. 4, Item 15; 1986, No. 42, Item 202, and 1989, No. 4, Item 21, and No. 35, Item 192), the words “or is entitled to unemployment benefits” are added after the words “gainful employment.”

Article 68. In Article 8 of the law dated 23 December 1988 on economic operations (DZIENNIK USTAW, No. 41, Item 324, 1990, No. 26, Item 149, No. 34, Item 198, and No. 86, Item 504, as well as 1991, No. 31, Item 128 and No. 73, Item 321):

a) the content to date is designated Paragraph 1,

b) Paragraph 2 is added, which reads:

“2. The organ making an entry in records of economic operations has a duty to mark this entry on the identity card of the person embarking on economic operations.”

Article 69.1. The law dated 29 December 1989 on employment (DZIENNIK USTAW, No. 75, Item 446;

1990, No. 9, Item 57 and No. 56, Item 323, as well as 1991, No. 7, Item 24, and No. 46, Item 201) is hereby invalidated.

2. Contributions to the Labor Fund shall be paid at the current rate until the budget law for the year 1992 is adopted.

Article 70. The law shall take effect on the first day of the month following the month in which it is announced, provided that:

- 1) Article 2, Paragraph 1, Point 2, and Article 3 take effect on 1 January 1993,
- 2) provisions of the law concerning benefits for the graduates of general schools take effect on 1 September 1991,
- 3) provisions of the law on benefits due to unemployed women for documented periods of time for which social security benefits would have been due in the event of an illness or maternity, take effect on 1 July 1991.

The law takes effect on 1 December of this year (DZIENNIK USTAW No. 106, 20 November).

**Executive Order Governing Securities Prospectus**  
92EP0087C Warsaw DZIENNIK USTAW in Polish No 71, 12 Aug 91 Item No 308 pp 981-991

[Executive order of the Council of Ministers dated 29 July 1991 governing specific conditions that should be met by prospectuses of securities admitted to public trading]

[Excerpts] Pursuant to Article 50, Paragraph 5, of the Law of 22 March 1991 on Public Trading in Securities and Mutual Funds (DZIENNIK USTAW [Dz.U.], No. 35, Item 155), the following is hereby ordered:

**Paragraph 1.**

This executive order defines the specific requirements which must be met by a securities prospectus.

**Paragraph 2.**

The prospectus should be a source of information on the issuer and other persons indicated in this executive order, disclose accurately and honestly their economic and legal status, and provide exhaustive data on the proposed issue.

**Paragraph 3.**

The prospectus consists of the following parts:

- 1) Introduction.
- 2) Information on the Issue.
- 3) Information on the Issuer.

- 4) Information on the Officers and Directors.
- 5) Information on the Issuer's Business.
- 6) Information on Growth Prospects.
- 7) Financial Data.
- 8) Additional information.
- 9) Appendices.

**Paragraph 4.**

The author of the prospectus should include information in the sequence of the parts of the prospectus prescribed in this executive order or indicate which kinds of information are not provided.

**Paragraph 5.**

The Introduction should specify:

- 1) The (company) name and address of the issuer.
- 2) The kind and quantity of the securities offered and their book value and issue price, as well as any restrictions applying to the transfer of rights to securities.
- 3) Date and place of preparation of the prospectus.
- 4) Name and surname or company name and address of the preparer of the prospectus, as well as the nature of his relationship with the issuer.
- 5) Place where the prospectus and any eventual updating information together with appendices and other documents will be made accessible to the public.
- 6) Names and surnames, addresses, and posts held by individuals or company names and addresses of the legal entities responsible for the information contained in the prospectus, and the nature of their relationship with the issuer. In this connection, limitations on the responsibility of these persons or entities with respect to separate parts of the prospectus are admissible only if a specifically named person is responsible for every individual part of the prospectus.
- 7) Declarations of the responsibility of the persons referred to in Point 6), stating that the prospectus was prepared professionally, and the information it contains is consonant with the facts and does not omit anything that might markedly affect its contents; if the responsibility of these persons is confined to certain parts of the prospectus, this should be made clear in the declaration.
- 8) Names, surnames, addresses, and professional qualifications of the persons who audited the financial reports.
- 9) Declarations by the persons referred to in Point 8) to the effect that they did audit the financial reports.
- 10) Table of contents of the prospectus.

**Paragraph 6.**

In the chapter "Information on the Issue" the following information should be provided:

## 1) Description of the basis of the issue, identifying:

- A) The office or persons authorized to decide on the issue, and the legal foundation therefor.
- B) Dates and forms of adoption of legally valid decisions on the issue, on quoting the text of these decisions at least in the part concerning the issue.

## 2) Purposes of the issue which are to be accomplished with the aid of the proceeds derived from the intended issue, on specifying which part of the proceeds will be allocated for each of the specified purposes, and on indicating:

- A) Eventual priorities in accomplishing the purposes of the issue in the event that more than one purpose is named.

- B) Amounts and sources of additional funds needed to accomplish the purposes for which the proceeds from the issue are insufficient.

- C) In the event that 5 or more percent of income from the issue is intended to repay indebtedness, the interest rate and payment schedule.

- D) Manner of utilization of the funds derived from loans or credit borrowed in the last 12 months which are to be repaid from the income from the issue, insofar as no short-term obligations are involved and the financing of net current assets is intended.

- E) In the event that 5 or more percent of the proceeds from the issue is earmarked for acquiring assets on terms that markedly diverge from those previously applying to such acquisitions, the nature of the transactions and the purchase price.

- F) In the event that 5 or more percent of proceeds from the issue is intended to acquire assets from an entity that is either a subsidiary or a parent company of the issuer, the name of that entity and the principles on which the calculation of the purchase price is based.

## 3) Specification of the kinds, quantity, and overall value of the securities issued, upon identifying the attendant stock options and other benefits in accordance with the sample form in Appendix No. 1 to this executive order.

## 4) Principal factors influencing the issue price of the securities offered, in particular when:

- A) The kind of securities concerned has not previously been traded publicly.

- B) The issue price of the securities differs from the prices quoted on the stock exchange for other securities of the same kind.

- 5) Statement as to whether existing shareholders have priority in acquiring the securities; any exclusions or restrictions on that priority; identification of persons whom such exclusions or restrictions are to benefit; and guidelines for determining the issue price of the shares not acquired by the existing shareholders.

- 6) Factors making the securities highly risky to the buyer.

- 7) In the event that the guarantees referred to in Article 6, Paragraph. 2, of the Law of 27 September 1988 on Bonds (Dz.U., No. 34, Item 254) are provided, the name, company, address, and capital stock of the guarantor and the extent of the guarantee and its relationship to the value of the issue.

- 8) In the event that the issuer has concluded an agreement other than that defined in Point 7) concerning the issue, the parties to that agreement, the value of their capital stock, and principal terms of the agreement.

- 9) The rights appertaining to the securities being issued for public trading and the expected obligations of the securities buyer as to additional payments to the issuer.

## 10) If a stock issue:

- A) The company bodies proper for taking decisions on profit distribution and dividend payments and the related timetable.

- B) The starting date on which stockholders are entitled to a dividend.

- C) The procedure for making public information on collecting the dividend.

- D) Terms for collecting the dividend.

- E) Existing dividend privileges.

- F) Restrictions on payment of dividend.

## 11) If a bond issue:

- A) Amount, schedule, place, and terms of payment of bond interest.

- B) Schedule of bond redemption.

- 12) Taxes on income from the ownership of and trading in the securities issued.

- 13) Names of the underwriters of the securities, with allowance for their relationship to the issuer, scope of their authorization, and the principles of their responsibility to the issuer and purchasers.

- 14) Rules for the distribution of the securities and the place and dates for their purchase.

- 15) Statement of the legal consequence of the failure to make payments for stock on schedule.

16) Description of the procedure for making public the company's failure to start operating and for refunding the payments made by the subscribers to the issue.

**Paragraph 7.**

In the chapter "Information on the Issuer" the following information should be presented:

1) name (company) and address of the issuer, telecommunications number, and identifying number according to the classification of the GUS [Main Statistical Administration].

2) Legal status of the issuer, on specifying whether the issuer originated from a transformation of its legal status.

3) Names and surnames or company names of founders.

4) Name of the court of law which ruled in favor of recording [the enterprise] in the appropriate registry.

5) Duration of existence of the company, if limited.

6) Purpose of the enterprise.

7) Kinds and value of the funds or capital stock of the issuer, and in the case of capitalized joint stock companies also:

A) Quantity and kinds of the shares forming the capital stock, their book value and issue price.

B) Description of all subscriptions of nonmonetary assets, both tangible and intangible, to the capital stock, on naming the subscribers and the auditors who checked the report of the founders.

C) Information on the part of capital stock that was not fully paid-in, on specifying the quantity, kinds, book value, and issue price of the shares not fully paid for.

D) Quantity of circulating shares issued by the company, and

E) Additional requirements that must be met in the event of changes in capital stock and changes in the rights to various kinds of stock or shares when so envisaged in the agreement (founding charter).

F) Detailed data on any changes in capital stock in the last three fiscal years as well as on changes in the quantity and kinds of the shares (stock) forming that capital.

G) Data on partners who own directly or indirectly more than 5 percent of the capital stock, as well as on the stock options available to them.

H) Nature and extent of major contractual ties between the issuer and the enterprises managed by the partners referred to in Point g) or that are subsidiaries thereto.

I) Quantity, book value, and registered value of all shares of the issuer owned either by the issuer or by a subsidiary of the issuer.

**Paragraph 8.**

In the chapter "Information on the Directors and Officers" the following information should be presented:

1) With respect to the management of the issuer's enterprise:

A) Name, surname, and address.

B) Position and qualifications held.

C) Activities pursued outside the issuer's enterprise, if they are relevant to the issuer's business, on indicating whether they are mutually competitive.

2) In the case of capitalized companies the data referred to in Point 1) should be disclosed with respect to all members of the board of directors and supervising bodies of the company, and, if the company has existed for less than five years, also with respect to its founders.

3) The aggregate value of the emoluments and bonuses paid to the officers and directors in the last fiscal year (in cash or in kind), regardless of whether it was debited to operating expenses or linked to profit distribution.

4) The aggregate value of all unpaid loans granted by the issuer to the officers and directors, and of the attendant loan guarantees and sureties.

5) In the case of joint stock companies, the aggregate quantity and book value of all the company shares owned by members of the company's board of directors and supervising bodies.

6) With respect to gminas [townships, local governments] or gmina associations, the information referred to in Point 1) should be disclosed as regards members of the gmina council and the gmina board.

7) Information on spouses, children, and parents of the persons referred to in Points 1), 2), and 6), if they engage in business activities, and own shares (stock) in other economic entities or are members of their governing bodies.

**Paragraph 9.**

In the chapter "Information on the Issuer's Business" the following information should be presented:

1) A description of the issuer's business activities, and in particular:

A) Information on principal products and services and on principal markets, along with a definition of their standing on the domestic or local market; this means information on the share of the volume of sales of the products or services of the issuer's enterprises in the overall volume of sales of the

same products or services attained by all the enterprises operating on a given market.

B) Suppliers and availability of supplies.

C) Contracts of major importance to the issuer's business, and in particular licensing and credit agreements as well as the licenses held.

D) Seasonal nature, if any, of the markets.

E) Dependence of issuer on one or several clients; in the event that one client controls as much as 10 and more percent of income from the issuer's sales, the client's name and formal ties to the issuer have to be disclosed.

F) Information on volume of sales for the last 3 fiscal years, with division into kinds of issuer's business activities and the geographical structure of the market for the issuer's products or services.

2) Data on real estate owned by the issuer.

A) Size and structure of real estate.

B) Legal titles to real estate.

C) Existing liens.

3) A description of the organizational structure of the issuer's enterprise, identifying the financially, territorially, and organizationally separate units.

4) General information on structure of employment, occupational and professional training of the workforce, and forms of labor services (employment contract, commission agreement).

5) Information on the research, development, and application projects worked on by the issuer during the last three years.

6) A description of major capital investments, i.e., investments in securities during the last three years, with division into foreign and domestic investments, and information on capital investments planned in the near future.

7) Methods of financing the investments referred to in Point 6).

8) Name of the bank in which the issuer is a current account-holder, and names of the other banks and of the services they provide.

9) Quotations of the prices of the securities owned by the issuer himself over the last three years, with at least a quarterly breakdown, on the domestic and foreign securities markets on which the issuer is present.

10) Information about proceedings under way, such as:

A) Bankruptcy, composition-agreement, or liquidation proceedings involving the issuer, a partner, or a subsidiary or the parent company of the issuer.

B) Proceedings to which the issuer, its officers and directors, and partners owning more than 5 percent of the capital stock, are a party, if the results of these proceedings may affect the activities of the issuer.

C) Proceedings before administrative bodies in connection with the business of the issuer, if the results of these proceedings may affect the issuer's business activities.

11) Information on agreements between the Antimonopoly Office and the issuer concerning changes in the organizational structure of the issuer's enterprise as a requirement for privatization, along with statement of the consequences ensuing in the event of the failure of the issuer's enterprise to implement the agreed-upon recommendations.

**Paragraph 10.**

In the chapter "Information on Growth Prospects" the following information should be presented:

1) Directions of changes in the operation activities of the issuer during the period between the last financial report published in the prospectus and the preparation of the prospectus itself.

2) A description of the perspectives for an improved economic performance of the issuer at least until the end of the current fiscal year, with allowance for elements of the strategy developed by the issuer.

**Paragraph 11.**

In the chapter "Financial Data" the following information should be presented:

1) A financial audit report prepared by authorized persons and containing the following elements:

A) Title: "Financial Audit."

B) Addresses of the audit.

C) Identification and authentication of financial reports and other documented sources of information which served as the grounds for preparing financial data.

D) Description of the auditing methods used to appraise the value of the components of assets and verify income and expenditures, as well as a listing of the ensuing differences between the data disclosed and the basis on which they were prepared.

E) Statement of opinion, or of abstention from expressing it, attested by the personal signatures of the persons preparing the audit and issuing the opinion—and in the event that a negative opinion is expressed or abstained from, a rationale for taking such a position.

F) Names, surnames, and addresses of the certifying accountants preparing the audit.

G) Date on which audit was completed.

2) Selected financial data for the last three fiscal years, as according to the sample forms contained in the appendices to this executive order, depending on the form of the issuer.

3) If the issuer has been doing business for less than one year and its legal predecessor was another legal entity, the basis for preparing the financial data should be the financial reports of the legal predecessors.

4) In the event referred to in Point 3), an integral part of the financial audit should be the information on the relationship between the legal predecessor and the issuer and on the procedure and scope of the transfer of fixed assets, liquid capital, and long- and short-term accounts receivable.

5) If the issuer operates departments (plants) which prepare separately their own annual reports, and if the financial management of these departments (plants) is consolidated, the data disclosed in the prospectus should be consonant with the corresponding statement of consolidated income and consolidated balance sheet.

6) If the prospectus is provided after 90 days from the end of the last fiscal year, the data on the issuer's financial situation should be complemented with the income statement and balance sheet prepared for all complete quarterly periods of the current fiscal year.

7) If the last three years of activity of the issuer coincided with a period characterized by a high inflation index (more than 20 percent annually), the financial data should be—at least with regard to the volume of sales—corrected for the inflation index upon citing the source of the index and the methods for utilizing it.

**Paragraph 12.**

In the Chapter "Additional Information" the issuer may present data other than those defined in Paragraphs 5-11 insofar as they are relevant to the planned issue.

**Paragraph 13.**

The following appendices should accompany the prospectus:

- 1) An extract from the registry proper for the issuer, as referred to in Paragraph 7, Point 4).
- 2) Opinions of certifying accountants on the subscriptions of nonmonetary, both tangible and intangible, assets referred to in Paragraph 7, Point 7), under the letter b).

**Paragraph 14.**

This executive order takes effect on the day of its publication.

Chairman of the Council of Ministers: J.K. Bielecki

**Appendix No. 1. Sample Form of Presenting the Data Referred to in Paragraph 6, Point 3), of the Executive Order [passage omitted]**

**Appendix No. 2. Sample Form of Data Presentation**

The financial data referred to in Paragraph 11, Point 2), of this executive order should be, in the event that the issuer is a bank, presented as follows:

**I.**

**Income Statement**

- 1) Interest earned from investments and similar sources, upon listing separately revenues from fixed-yield securities.
- 2) Interest and similar costs.
- 3) Income from securities:
  - A) Income from stocks and other variable-yield securities.
  - B) Income from partnership shares.
  - C) Income from stock owned in affiliated entities.
- 4) Income from commissions, including:
  - Income from brokerage operations.
- 5) Commission expenses.
- 6) Profit or loss due to financial operations.
- 7) Other operating income.
- 8) Overall expenses:
  - A) Salaries, including:
    - Remuneration and honorariums.
    - Special expenses.
  - B) Other expenses.
- 9) Adjustments of net worth for nonmonetary assets, both tangible and intangible, as well as for fixed assets.
- 10) Other operating expenses.
- 11) Adjustments of net worth for loans and sureties.
- 12) Adjustments of net worth for transferable securities held as fixed financial assets, partnership shares, and stock owned in affiliated entities.
- 13) Operating profit or loss.
- 14) Extraordinary income.
- 15) Extraordinary expenses.
- 16) Profit or loss due to special circumstances.
- 17) Pretax profit or loss.

18) Income tax.  
 19) Other taxes paid on profit.  
 20) Balance-sheet profit (loss).

With regard to Items 8a) and 8b) the expenses on brokerage operations should be reported separately.

The caption "Other taxes paid on profit" is to be explained in a footnote, on detailing the nature and amounts of the tax obligations involved.

If the basis for calculating the income tax specified in the income statement differs from the pre-tax profit stated in that statement, the difference should be explained in a note.

The distribution of profit for a given fiscal year should be specified, and in the case of an incomplete fiscal year the decision of the board of directors on the tentative distribution of the profit indicated in the income statement for complete quarterly periods in the current year should be reported. The amount of the profit for distribution is equal to the amount of balance-sheet profit specified in the financial statement.

A bank which has the status of a joint stock company discloses the profit per share. The profit per common share should be determined as the ratio of profit after taxes minus the dividends paid to preferred stock, regardless of whether they were or will be declared, divided by the weighted mean number of common shares owned by the shareholders for the fiscal year. The weight here is the length of the period, determined as the entirety or a part of the fiscal year, in which the common stock of a given issue had the right to participate in the dividend.

## II.

### Balance Sheet

#### A. Assets

1. Cash, money on deposit in the central bank and at post offices.
2. Treasury notes and other notes eligible for refinancing at the central bank.
  - A) Treasury notes and similar securities.
  - B) Other notes eligible for refinancing at the central bank.
3. Loans to financial institutions:
  - A) Current.
  - B) Others.
4. Loans to Customers.
5. Securities maturing, including fixed-yield securities:

- A) Securities issued by the government and municipalities.
- B) Securities issued by the National Bank of Poland.
- C) Maturing capital stock.
- D) Securities issued by other companies.
6. Variable-yield stock and other securities.
7. Partnership shares, with separate listing of:
  - Partnership shares in financial institutions.
8. Shares in affiliated companies, with separate listing of:
  - Shares in financial institutions.
9. Intangible assets and goodwill.
10. Fixed assets.
11. Capital stock contributions due.
12. Marketable capital stock.
13. Other assets.
14. Comparative cost statements.
15. Balance-sheet loss.
16. Total, assets.

#### B. Liabilities

1. Obligations to financial institutions:
  - A) Current.
  - B) Term.
2. Obligations to clients:
  - A) Savings deposits, with separate listing of:
    - AA) Current deposits.
    - AB) Term deposits.
    - AC) Current deposits.
    - AD) Term deposits.
  - B) Other obligations to clients.
    - BA) Current.
    - BB) Term.
3. Obligations linked to securities.
  - A) Bonds payable.
  - B) Collateral obligations.
  - C) Brokerage-activity obligations.
  - D) Others.

4. Other obligations.
5. Comparative cost statements and projected future income.
6. Reserves for risks and expenses.
7. Subordinated and regular liabilities.
8. Capital stock. (Footnote) (Banks whose legal status is other than that of a joint stock company publish information on their capital in accordance with the binding regulations and bank statute or charter.)
9. Reserve capital, of which:
  - Deductions from profit.
10. Inventory.
11. Surplus arising from revaluation.
12. Undistributed profit or undefrayed loss for previous years.
13. Balance-sheet profit.

**C. Notes on the following subjects should be appended to the balance sheet:**

- 1) Value of fixed assets in breakdown:
  - A) Land and buildings occupied by the bank for operating purposes.
  - B) Other land and buildings.
  - C) Facilities and equipment.
  - D) Advance payments for investments and the investments initiated.
  - E) Other fixed assets.
- 2) Value of nonmonetary assets, both tangible and intangible, in breakdown by:
  - A) Founding expenses.
  - B) Value of company, if acquired in return for a monetary consideration.
  - C) Licenses, patents, concessions, and other similar assets purchased.
  - D) Other nonmonetary assets.
  - E) Advance payments for nonmonetary assets.
- 3) Balance-sheet value of the shares held.
- 4) Issuer-owned percentage of the capital stock of the company.

If the value of the shares exceeds 10 percent of the issuer's capital stock, the following information is additionally subject to disclosure:

- Value of the capital stock of that company.
- Profit or loss for that company for the last fiscal year.
- Value of shares owed by the issuer.
- Value of the dividends received by the issuer in the last fiscal year.

- 2) With respect to each of the following items of Assets, namely, 5a), 5b), 5d), and 6, the amounts indicated should be specified in breakdown by:
  - Value of the securities constituting the issuer's own capital investments.
  - Value of the securities constituting the object of brokerage operations.
- 3) With respect to Items 3b) and 4 of the Assets and Items 1b), 2a) (ab), and 3b) of the Liabilities, a comparison of the value of these credits and liabilities according to the time limits on which they are due:
  - Up to three months.
  - From three months to one year.
  - From one year to five years.
  - Upward of five years.
- 4) With respect to Item 7 of the Liabilities, if the amount concerned exceeds 10 percent of the total subordinated liabilities: the value of the loan, the currency in which the loan was borrowed, the interest rate, and the period due.
- 5) With respect to Item 5 of the Assets and Item 3a) of the Liabilities, the part of these assets and liabilities due within one year from the date of the balance sheet should be reported.
- 6) With respect to the securities indicated in Items 5-8 of the Assets, their division into transferable and nontransferable securities, and with respect to transferable securities, their division into those quoted on the securities exchange and those not quoted there.
- 7) With respect to the transferable securities indicated in Items 5 and 6 of Assets, their division into securities held as financial fixed assets and other securities, and a definition of the criterion on which this division is based.
- 8) Value of leasing transactions, on specifying the balance-sheet items in which these transactions are included.

9) Detailed information on any assets that represent the collateral for the obligations of the banks themselves or of a third party.

Note: Assets should be indicated under corresponding balance-sheet captions even when the bank preparing the balance sheet has pledged them as collateral for its obligations or for the obligations of a third party. The bank may not include in its balance sheet the assets left with it as collateral for the loans it grants, if these assets are not in the form of cash held by the bank.

When classifying loans and obligations into current and term ones, the assumption should be that only the amounts that can be collected without notice or whose period due or period of notice is 24 hours or one work day may be classified as current.

### III.

#### **Data on Changes in the Financial Status of the Issuer Comprising the Statement of Cash Flows**

##### **A. Cash inflows from financing activities.**

1. Balance-sheet profit.

2. Amortization.

3. Proceeds from issuing stock.

4. Proceeds from issuing bonds.

5. Other cash inflows.

6. Aggregate cash inflows.

##### **B. Cash outflows on financing activities**

1. Dividends paid.

2. Investing expenses, of which: expenses on:

    A) Fixed assets and nonmonetary assets.

    B) Partnership shares in affiliated companies.

    C) Maturing securities.

    D) Stock.

3. Interest paid on maturing securities.

4. Obligations paid in connection with maturing securities.

5. Cash paid from balance-sheet profit for employees and for socially useful purposes.

6. Other cash outflows.

7. Aggregate cash outflows.

8. Surplus (deficit) of cash flows from financing activities.

9. Adjustments in savings deposit and loan obligations.

10. Adjustments in obligations relating to brokerage activities.

11. Adjustments of other obligations.

12. Adjustments of maturing securities and stock constituting the objects of brokerage operations.

13. Adjustments in monies due on loans and Treasury notes.

14. Adjustments of cash resources.

15. Adjustments of other assets.

16. Total, adjustments.

Under the captions "Other cash inflows" and "Other cash outflows" only the amounts not exceeding 5 percent of cash inflows or outflows, respectively, may be shown.

### IV.

As an appendix to the most recent audited balance sheet, the banks prepare a tabulation of the guarantees granted to other issuers. That comparison should be structured as follows:

1. Name of issuer whose securities are subject to the bank guarantee.

2. Character of the securities guaranteed.

3. Aggregate amount guaranteed and not paid.

4. Value of guaranteed amount in possession of the bank.

5. Value of guaranteed securities in possession of the bank.

6. Nature of guarantee granted; e.g., guarantee of principal and interest rates, interest guarantee, dividend guarantee.

A comparison of the guarantees granted is subject to auditing by certifying accountants.

### V.

#### **Foreign Operations**

##### **1) Definitions.**

A) Foreign operations are to be interpreted as loan and credit grants and other asset-generating income as well as transactions to which a client domiciled abroad or having offices abroad is the other party.

B) The term "income" comprises the aggregate value of the amounts specified under captions 1, 3, 4, and 7, in the income statement.

C) "Significant geographical area" is the area on which any one of the following items is in excess of 10 percent of the corresponding items in the financial reports:

—Bank assets, or

- Value of revenues, or
- Pretax profit (loss), or
- Balance sheet profit (loss).

2) Basic requirements:

Separate disclosures concerning the bank's foreign operations should be made for each period of time during which any one of the following aspects relating to foreign operations exceeds 10 percent of the corresponding items in financial reports:

- A) Value of assets, or
- B) Revenues, or
- C) Pretax profit (loss), or
- D) Balance-sheet profit (loss).

3) Disclosures

A) The value of all the assets linked to foreign operations should be specified separately.

B) For each period for which the income statement is prepared, the value of:

- Pretax profit (loss)
- Balance-sheet profit (loss)
- Foreign operations

should be indicated.

C) Information from Points 3a) and 3b) should be presented both separately for every significant geographical area and jointly for all these areas.

VI.

If the issuer decides that the selected financial data provided in accordance with the guidelines of Points I-V do not reflect with sufficient precision the favorable trends in the issuer's financial situation, or if they reflect that situation incompletely owing to the time frame or the scope of the information required, the issuer may provide additional data.

**Appendix 3. Sample Presentation of Financial Data in the Event That the Issuer is an Entity Other Than a Bank, a Gmina, a Gmina Association, or an Insurance Company**

**Part One**

The financial data referred to in Paragraph 11, Point 2, of this executive order, for an issuer having the status of a state enterprise or presenting the financial reports for its legal predecessor which had the status of a state enterprise, should be presented as follows:

**I. Income statement:**

1) Income from sales.

- 2) Turnover tax and other encumbrances on income from sales.
- 3) Subsidies and other subventions added to income from sales.
- 4) Net income from sales.
- 5) Production cost.
- 6) Overhead expenses.
- 7) Sales expenses.
- 8) Operating profit (loss).
- 9) Other income.
- 10) Income from financial operations.
- 11) Expenses on financial operations.
- 12) Profit (loss) from operation activities.
- 13) Extraordinary profit.
- 14) Extraordinary loss.
- 15) Pretax profit (loss).
- 16) Income tax.
- 17) Other taxes on profit.
- 18) After-tax profit (loss).
- 19) Dividends payable to the State Treasury.
- 20) Deductions to workforce fund within current year.
- 21) Donations for public purposes within current year.
- 22) Balance-sheet profit (loss).

In the event that the issuer derives profit from sales in many domains of activity, a footnote specifying the profit from each domain should be appended. Under the caption "Other income," income not exceeding 5 percent of aggregate income may be reported.

Where commercial operations are involved, income is interpreted as the actual margin of trade profit and trading expenses are detailed in Item 5 of the income statement.

The caption "Income from financial operations" should be explained in an appended footnote which should specify that income at least in terms of income from dividends, from earned interest on loans, from differences in currency exchange rates, and miscellaneous income. If the issuer derives more than 5 percent of financial income from sources other than those elucidated above, these should be detailed under a separate caption.

The caption "Expenses on financial operations" comprises all the loan interest paid by the issuer on separately enumerated loans and debited to the issuer's

operating expenses, as well as the interest paid on the short- and long-term securities issued by the issuer. If the related expenses have previously been debited to overall expenses, they should be excluded from that caption.

The caption "Other taxes paid on profit" should be explained in an appended footnote on specifying the kinds and amounts of the tax obligations comprised.

If the basis for reckoning the income tax specified in the income statement differs from the pre-tax profit reported in that statement, that difference should be explained in a footnote.

## II. Balance sheet

### A. Assets

#### 1. Durable property:

- A) Fixed assets
- B) Investments initiated and advance payments for investments.
- C) Nonmonetary assets, both tangible and intangible.
- D) Financial assets.

#### 2. Liquid assets:

- A) Reserves,
- B) Accounts receivable.
- C) Short-term securities.
- D) Cash.

#### 3. Comparative cost statements.

#### 4. Balance-sheet loss.

### B. Liabilities:

#### 1. Stockholders' equity:

- A) Capital stock.
- B) Surplus arising from revaluation.
- C) Retained earnings or noncovered loss from previous years.

#### 2. Long-term obligations:

- A) Loans.
- B) Bank credits.
- C) Bonds.
- D) Miscellaneous.

#### 3) Short-term obligations:

- A) Commercial obligations.
- B) Other obligations.
- C) Long-term obligations relating to current period.
- 4. Comparative cost statements and projected future income.
- 5. Balance-sheet loss.
- C. Footnotes with the following information should be appended to the balance sheet:
  - 1) Value of fixed assets in breakdown by principal groups, along with a table of the movement of fixed assets over the most recent fiscal period, specifying: gross value at beginning of period, increase or decrease in itemized fixed assets; amortization at beginning of period; amortization over period of account; amortization at end of period; net value at end of period.
  - 2) Detailed compilation of financial assets, i.e., of shares owned in other economic entities, investments in long-term securities, and loans. In the event of ownership of shares in other economic entities, the names of these entities and the balance-sheet value of the shares and the percentage of capital stock owned should be reported; if the book value of the shares in a given enterprise exceeds 10 percent or more of the issuer's stockholders' equity, the scope of activities of that enterprise should additionally be reported, along with information on the value of stockholders' equity in breakdown by capital stock, reserve capital, additional capital and reserve capital, and the profit attained or loss sustained within the last fiscal year, the value of shares owed by the issuer, the value of the dividends received within the last year of account, and the value of the obligations and debts owed that enterprise by the issuer.
  - 3) Value of inventory in breakdown by: materials, finished products, semifinished products, production under way, merchandise, advance payments to suppliers.
  - 4) Accounts payable in breakdown into those payable in Polish currency and those payable in foreign currencies as reckoned in terms of their rates of exchange for the Polish zloty.
  - 5) A compilation of short- and long-term obligations and their payment schedules, along with all liens of a legal and binding nature; the criterion for classifying the obligations is the period remaining until payment, i.e., within one year for short-term obligations and longer than one year for long-term obligations.
  - 6) Distribution of profit for a given fiscal year, and in the event of an uncompleted year of account—decisions of the board of directors on the proposed distribution of profit shown in the statement of income for completed quarterly periods of the current year. The amount of the profit to be distributed is the balance-sheet profit specified in the income statement.

**III. Data on Changes in the Issuer's Financial Status  
Comprising the Statement of Cash Flows**

**A. Cash inflows:**

**Cash inflows from operation activities:**

1. After-tax profit.

2. Amortization.

3. Other cash inflows.

**Cash inflows from investing and financing activities:**

4. Securities issued.

5. Long-term loans and credits.

6. Other cash inflows from investing and financing activities.

7. Total, cash inflows.

**B. Cash outflows:**

1. Bond interest paid.

2. Bonds redeemed.

3. Deductions from profit for the workforce and for socially useful purposes.

4. Dividends for the State Treasury.

5. Investing expenses (on obtaining fixed assets).

6. Repayment of loans, credits, and long-term obligations.

7. Other cash outflows.

8. Total, cash outflows.

9. Surplus (deficit) of cash flows.

10. Adjustment of inventory.

11. Adjustment of accounts payable.

12. Adjustment of obligations.

13. Adjustment of cash and short-term securities.

14. Total, adjustments.

Under the captions "Miscellaneous cash flows from operation activities" and "Miscellaneous miscellaneous cash flows from financial activities" only the income exceeding 5 percent of the total may be shown. This rule also applies to the captions "Other cash outflows" and "Total cash outflows on financial activities."

**Part Two**

The financial data referred to in Paragraph 11, Point 2), of this executive order should be presented as follows in the case of an issuer having the status of a joint stock company, a corporation, or a cooperative.

**I. Income statement**

- 1) Net sales income.
- 2) Production cost (inclusive of valuation adjustments).
- 3) Gross sales profit (loss).
- 4) Sales cost (inclusive of valuation adjustments).
- 5) Management and administrative expenses (inclusive of valuation adjustments).
- 6) Income from other operating activities.
- 7) Income from participation in other entities, including income received from subsidiaries.
- 8) Income from other financial assets and from loans credited to fixed assets.
- 9) Other interest earned and income from other financial operations, including revenues from subsidiaries.
- 10) Adjustments in value of the financial assets and investments included in liquid capital.
- 11) Interest and other financing expenses, including payments to subsidiaries.
- 12) Profit (loss) from business activities.
- 13) Extraordinary profit and income.
- 14) Extraordinary loss and expenses.
- 15) Profit (loss) due to extraordinary events.
- 16) Income tax.
- 17) Other taxes paid on profit (loss).
- 18) Balance-sheet profit (loss).

An issuer having the status of a joint stock company discloses its profit per share of stock.

The profit per share of common stock should be determined as the ratio of after-tax profit minus the dividend paid for preferred stock, regardless of whether that dividend actually was or will be declared, to the weighted mean of the number of shares of common stock owned by stockholders in the given fiscal year. The weighting here is the length of the period—defined as an entire fiscal year or a part thereof—in which the common stock of a given issue was entitled to a dividend.

**II. Balance Sheet**

**A. Assets**

1. Accounts payable to capital.
2. Durable property:
  - A) Fixed assets.
  - B) Nonmonetary assets, both tangible and intangible.

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**JPRS-EER-92-012-S**  
**30 January 1992**

- C) Financial assets.

3. Liquid assets

- A) Reserves.
- B) Accounts payable.
- C) Short-term investments.
- D) Cash on hand and in bank accounts.

4. Comparative cost statements.

5. Balance-sheet loss.

**B. Liabilities**

1. Stockholders' equity.

- A) Capital stock.
- B) Reserve capital, including deductions from profit to offset balance-sheet loss.
- C) Reserve capital envisaged in the statute.
- D) Revaluation reserve.
- E) Retained earnings or noncovered loss from previous year.

2. Reserves.

3. Obligations:

- A) Long-term obligations.
- B) Short-term obligations.

4. Comparative cost statement and projected future income.

5. Balance-sheet profit.

**C. The following notes should be appended to the balance sheet:**

1. Value of fixed assets in breakdown by:

- A) Land, buildings, and structures.
- B) Plant, machinery, and manufacturing and commercial equipment.
- C) Other facilities and equipment.
- D) Advance payments on investments and initiated investments.

2) Value of nonmonetary assets, both tangible and intangible, in breakdown by:

- A) Organizational outlays on founding or later expansion of enterprise, in breakdown over time.
- B) Outlays on research and development, in breakdown over time.

- C) Concessions, patents, franchises, trademarks, and similar intangible assets, whether existing or acquired in return for payment.
- D) Value of company, if acquired in return for payment.
- E) Advance payment for nonmonetary assets.

3) Value of financial assets, in breakdown by:

- A) Share in subsidiaries.
- B) Long-term loans granted to subsidiaries.
- C) Other shares.
- D) Other long-term loans granted.
- E) Capital investments in the securities credited to fixed assets.

4) Value of inventory in breakdown by:

- A) Materials.
- B) Unfinished production.
- C) Finished products.
- D) Merchandise.
- E) Advance payments for supplies.

5) Value of accounts receivable, in breakdown by:

- A) Payments due for deliveries, work, and services.
- B) Payments due from subsidiaries.
- C) Other accounts receivable.

6) Value of short-term investments, in breakdown by:

- A) Securities of subsidiaries.
- B) Marketable capital stock.
- C) Other short-term investments.

7) Value of long-term obligations, in breakdown by:

- A) Bonds.
- B) Bank credits.
- C) Loans, including loans from subsidiaries.
- D) Others.

8) Value of short-term obligations, in breakdown by:

- A) Commercial obligations.
- B) Promissory notes.
- C) Other short-term obligations.
- D) Long-term obligations for the current period of payment.

**D. In addition, the following should be disclosed:**

1) Value of fixed assets in breakdown by main groups, along with a table of the movement of fixed assets for the last fiscal period, as follows: gross value at beginning of period; increase or decrease in fixed assets with breakdown by captions; amortization at beginning of period; amortization for period of account; amortization at end of period; net value at end of period.

2) With respect to shares in subsidiaries:

A) Name of subsidiary.

B) Nature of operations of the subsidiary.

C) Stockholders' equity in the subsidiary, including capital stock, reserve capital, additional capital, capital reserves.

D) Profit attained or loss sustained by the subsidiary during last fiscal year.

E) Value of shares not paid for by issuer.

F) Value of dividends earned for last fiscal year.

G) Balance-sheet values of shares.

H) Percentage of the subsidiary's capital stock owned by the issuer.

The disclosures in Points 2a, 2g, and 2h concern correspondingly the caption "Other shares." In the event that the book value of the shares exceeds 10 percent of the issuer's stockholders' equity, all the disclosures specified in Points 2a to 2h are binding.

An issuer having the status of a corporation or a cooperative specifies stockholders' equity in Group 1 of balance sheet liabilities in accordance with the captions in that group and consonant with the appropriate legal regulations, statute, or founding charter.

The criterion for classifying obligations into short- and long-term ones is the period remaining until repayment of the obligation starting on the date of preparation of the balance sheet, i.e., within one year for short-term obligations and upward of one year for long-term obligations.

A subsidiary is construed as an entity in which the issuer owns rights (stock, shares) to the extent of 20 and more percent of the subsidiary's capital stock.

**III. Statement of Cash Flows**

**A. Sources of cash inflows:**

Cash inflows from operation activities:

1. Balance-sheet profit.

2. Amortization.

3. Other sources of cash inflows from operation activities.

Cash inflows from investing and financial activities:

4. Stock issued.

5. Bonds issued.

6. Long-term loans and credits.

7. Other sources of cash inflows from investing and financial activities.

8. Total, cash inflows.

**B. Cash outflows:**

1. Dividends paid.

2. Bond interest paid.

3. Bonds redeemed.

4. Deductions from balance-sheet profit for the workforce and for socially useful purposes.

5. Investing expenses (on procuring fixed assets).

6. Repayment of loans, credits, and long-term obligations.

7. Other cash outflows.

8. Total, cash outflows.

9. Cash flow surplus (deficit).

10. Adjustments of inventory.

11. Adjustments of accounts receivable.

12. Adjustments of accounts payable.

13. Adjustments of cash on hand and short-term securities.

14. Total, adjustments.

Under the captions "Other cash inflows from operation activities" and "Other cash inflows from investing and financial activities" only the revenues not exceeding 5 percent of the total cash inflows in either case may be shown. This rule also applies to the caption "Other cash outflows" and "Total, cash outflows."

**Part Three**

If the issuer finds that the selected financial data specified in accordance with the sample listings in Points I, II, and III of Part One and Part Two do not reflect with sufficient precision favorable trends in the issuer's financial situation, or reflect that situation incompletely owing to the time frame or the scope of information required, the issuer may append additional information.

**Law on Public Trading of Securities, Mutual Funds**

92EP0084A Warsaw *DZIENNIK USTAW* in Polish  
No 35, 25 Apr 91 Item No 155 pp 481-492

[Law dated 22 March 1991 on public trading of securities and mutual funds]

[Text]

**Chapter 1. General Provisions**

Article 1.1. Public trading in securities comprises purchase offers, purchase of, or transfer of rights to series-issued securities by means of an offer or an invitation to bid issued by means of the mass media or in some other way, if the offer or invitation to bid is addressed to more than 300 persons or to an undefined addressee.

1.2. Public trading in securities may occur solely through the mediation of entities engaging in brokerage operations, unless this law specifies otherwise.

Article 2. Whenever this law refers to:

- 1) Securities, these are construed as documents intended to affirm or affirming the existence of a specific property right, when such documents are worded and issued so as to constitute autonomous objects of public trading.
- 2) The issuer—this is construed as the entity issuing securities in its own name.
- 3) Series-issued securities—these are construed as securities representing property rights divided by an a priori specified number of equal shares.
- 4) Primary public trading—this is construed as the issuer's proposal to acquire rights to the series-issued securities, or the acquisition of such rights.
- 5) Secondary public trading—this is construed as the offer to sell rights to series-issued securities, made by persons other than the issuer, or the sale of such rights, if the securities are admitted for public trading or if the offer is a public one.
- 6) The securities exchange—this is construed as the assemblage of persons, facilities, and equipment organized so that, when the offers to sell and buy securities are correlated all the participants in the securities market have equal access to market information at that time, upon adhering to equal conditions of the sale and purchase of rights.
- 7) Mutual fund—this is construed as a financially separate ensemble of assets owned by participants in the fund, having a variable value and a fixed economic purpose and administered by a mutual fund society.

8) Collective investing—this is construed as the sale and purchase of securities on behalf of and for the common account of participants in a mutual fund.

9) Parent (or controlling) company—this is construed as a company which:

- A) Owns a majority of voting rights in the bodies of another entity (a subsidiary) or otherwise has controlling status on the basis of agreements with other authorized entities, or:
- B) Is authorized to appoint or recall a majority of the members of the governing bodies of another subsidiary, or
- C) Whose directors and officers account for more than one-half of the membership of the governing board or executive personnel of a subsidiary, directly or through the mediation of another subsidiary.

Article 3. The provisions of this Law do not apply to:

- 1) Primary public trading in the securities issued by the State Treasury or the National Bank of Poland, or in securities protected by loan guarantees from these institutions.
- 2) Trading in promissory notes and checks.
- 3) Public trading in securities to which rights can be executed within less than a year from date of issue.

Article 4.1. The issuance of securities by a subsidiary is interpreted as issuance by the parent company.

4.2. When determining whether a company is a parent company allowance is made for the right to vote and the right to appoint or recall members of the governing boards, which can be exercised through the mediation of another subsidiary or of a person acting or mediating on behalf of the parent company.

Article 5.1. Public trading in securities involves the issuance of certificates of deposit of securities that name the owner. The issuer of such certificates may be a bank or another legally empowered institution.

5.2. The text of the certificate should contain:

- 1) Company name and address of the issuer of the certificate, and the number of the certificate.
- 2) The quantity of the securities deposited.
- 3) The kind and serial number of the security and the date of issue.
- 4) Company name and address of the issuer.
- 5) Par value of the security.
- 6) Name, surname, and address of the owner of the security.

7) Information on restrictions and applying to the transfer of rights to the security, and on encumbrances on these rights.

8) Date and place of issue of the certificate.

5.3. The issuer or distributor of securities for public trading is obligated to assure that the entity referred to in Paragraph 1 issue a certificate of deposit to the owner of the securities, upon naming that owner in the certificate.

5.4. The person named in the certificate of deposit is authorized to execute all rights to the securities specified in the certificate.

5.5. In public trading in securities the transfer of rights to the securities deposited takes place once the sale-purchase agreement is concluded.

## Chapter 2. The Securities Commission

Article 6.1. The Securities Commission, hereinafter referred to as "the commission," is hereby established as the central government agency in charge of public trading in securities.

6.2. Supervision of the commission is exercised by the chairman of the Council of Ministers.

Article 7.1. The purposes of the commission include:

- 1) Supervising adherence to the rules for honest trading and competition as regards public trading in securities.
- 2) Initiating, organizing, and adopting measures to assure an efficient performance of the securities market and to protect investors.
- 3) Cooperating with government agencies, the National Bank of Poland, and institutions and participants in public trading in securities as regards formulating a government policy that would promote the growth of the securities market.
- 4) Disseminating knowledge about the operating principles of the securities market.
- 5) Taking other steps envisaged by the provisions of this Law.

7.2. The Council of Ministers may issue an executive order defining the specific scope of activities of the commission.

Article 8.1. The commission consists of the chairman, two deputy chairmen, and six members.

8.2. The commission chairman is appointed and recalled by the chairman of the Council of Ministers upon the joint recommendation of the minister of finance and the chairman of the National Bank of Poland, following evaluation by the concerned Sejm committees.

8.3. Deputy chairmen are appointed and recalled by the chairman of the Council of Ministers on the recommendation of the commission chairman.

8.4. Ex officio members of the commission are designated by the Ministry of Finance, the minister of ownership transformation, the chairman of the National Bank of Poland, and the chairman of the Antimonopoly Office, respectively. One member of the commission is designated by the Brokers' Council from among member of brokers' self-government, and one member is designated by the stock exchanges.

Article 9.1. The commission chairman represents the commission and directs its activities.

9.2. The commission chairman issues directives in cases indicated in the present law.

9.3. The commission publishes DZIENNIK URZEDOWY KOMISJI PAPIEROW WARTOSCIOWYCH [Official Journal of the Securities Commission] as prescribed by separate regulations.

Article 10. The commission and its chairman exercise their duties with the aid of the Office of the Securities Commission, hereinafter referred to as "the office."

Article 11. The organizational structure of the commission and the office is defined in the statute approved by the chairman of the Council of Ministers.

Article 12. Proceedings before the commission are governed by the provisions of the Code of Administrative Procedure, unless the present law specifies otherwise.

Article 13. In civil cases concerning public trading in securities the powers of a prosecutor ensuing from the appropriate provisions of the Code of Administrative Procedure also are vested in the commission chairman.

## Chapter 3. Brokerage Activities

Article 14.1. Persons whose names can be entered on the List of Brokers should:

- 1) Be fully capacitated legally.
- 2) Enjoy all civil rights.
- 3) Have no record of crimes against property, crimes against documents, economic crimes, currency counterfeiting, counterfeiting of securities or official stamps, or tax felony.
- 4) Have passed an examination before the Examining Commission for Securities Brokers.

14.2. The List of Brokers is maintained by the commission.

14.3. Entries in the List of Brokers are made by the commission upon requests of concerned parties.

14.4. The List of Brokers, suspensions of the right to engage in brokerage operations, and deletions from the

List of Brokers are published in DZIENNIK URZEDOWY KOMISJI PAPIEROW WARTOSCIOWYCH.

Article 15. The commission chairman:

- 1) Appoints members of the Examining Commission for Securities Brokers and oversees its activities.
- 2) Defines the scope of mandatory subjects to be included in examinations for brokers and in examinations for the candidates for consultants referred to in Article 33, and specifies the examination procedure.
- 3) Specifies the examination fees for candidates for brokers and the remuneration of members of the Examining Commission.

Article 16.1. A broker's name is deleted from the list:

- 1) Upon his request.
- 2) In the event of failure to exercise the broker's profession for five years in a row.
- 3) In the event of total or partial legal incapacitation.
- 4) Owing to sentencing by a valid judicial verdict for the perpetration of any of the crimes referred to in Article 14.1, Point 3).
- 5) Owing to the demise of the broker.

16.2. Deletion from the list or suspension for a period of from three to six months may be constituted as a result of culpable improper exercise of brokerage operations, violations of law in connection with the exercise of these operations, and violation of the rules of professional ethics of brokers.

16.3. Deletion from the list or suspension is ruled upon by the commission following a hearing held in the presence of the concerned party, on its own initiative or on the recommendation of the Disciplinary Court referred to in Article 37.

Article 17.1. In exercising his professional duties a broker is dutybound to act in consonance with the law and the principles of honest trading, on in particular bearing in mind the valid interests of his customers.

17.2. The broker is obligated to adhere to professional secrecy with respect to any information he may obtain in connection with the exercise of brokerage operations.

Article 18.1. The operator of a brokerage enterprise may be an individual, a legal entity, or an organizational unit lacking legal entity.

18.2. The operation of a brokerage enterprise requires a permit from the commission.

18.3. The application for the permit should contain:

- 1) Name and address of the entity or person operating the enterprise.

2) Basic information on the persons responsible for launching the enterprise and directing the operations subject to the permit.

- 3) If the enterprise is operated by a partnership, personal data on the partners and on their respective shares in the founding capital of the partnership.
- 4) Indication of parent or subsidiary relationship vis a vis other entities.
- 5) Requested scope of the permit.
- 6) Amount of own and loan capital subscribed for commencing the operations subject to the permit.
- 7) Attestation of a clean record with respect to the crimes referred to in Article 14.1. Point 3), by the persons directing the brokerage enterprise.
- 8) Information on the planned organizational structure of the enterprise and in particular on the premises and the telecommunications equipment available.
- 9) List of the persons referred to in Paragraph 5.

18.4. The commission specifies the minimum own capital and maximum loan capital referred to in Paragraph 3, Point 6).

18.5. The entity operating the brokerage enterprise is obligated to employ for brokerage operations persons authorized to act as brokers, and in the provision of consultancy on public trading in securities, the persons referred to in Article 33.

18.6. The entity operating the brokerage enterprise may not engage in any business activities in another domain under the plaque of that enterprise.

Article 19. The permit specifies:

- 1) The (company) name and address of the entity operating the brokerage enterprise.
- 2) The permissible scope and forms of brokerage operations.
- 3) The required own (founding, share, stock) capital of the enterprise and the related permissible extent of loan capital.
- 4) The required ratio of own capital to trading volume.
- 5) The time limit within which the brokerage enterprise should commence operating.
- 6) Other technical requirements which the brokerage enterprise is obligated to satisfy in the course of its operations.

Article 20. The commission may decline to grant a permit if the permit application does not meet the

requirements of Article 18.3, or if the information presented in the application points to the applicant's unreliability.

Article 21. A broker's activities at a brokerage enterprise include:

- 1) Offering securities for public trading.
- 2) Buying or selling securities under the guidelines of Article 22.
- 3) Administering a packet of securities on behalf of a client.
- 4) Providing professional consultation on trading in securities.
- 5) Safekeeping securities as requested by a client.

Article 22.1. The entity operating a brokerage enterprise is obligated to implement a client's order to sell or buy designated securities in its own name but to the account of the client.

22.2. The entity operating the brokerage enterprise is responsible to the client for paying the price of the securities to the seller.

22.3. Within the limits defined in the brokerage permit, the entity operating the brokerage enterprise may acquire securities in its own name and to its own account with the object of their resale.

Article 23.1. A joint stock company operating a brokerage enterprise may issue stock certificates only in the names of their owners.

23.2. The joint stock company operating a brokerage enterprise is obligated to name to the commission any individuals owning more than 5 percent of voting rights at the general meeting of stockholders.

23.3. Any subsequent change in the proportion of the voting rights referred to in Paragraph 2 to an extent greater than 2 percent of the voting rights also must be reported to the commission.

Article 24.1. A bank may engage in brokerage operations upon being granted a permit by the commission.

24.2. A requirement for granting the permit is the organizational and financial separateness of a bank's department for public trading in securities.

24.3. The provisions of Article 18.6, and Article 23 do not apply to the banks referred to in Paragraph 1.

Article 25.1. The commission may issue a ruling revoking or suspending the permit.

25.2. The commission may revoke the permit if the entity operating the brokerage enterprise:

- 1) Violates legal regulations.

2) Fails to meet the requirements specified in the permit or exceeds the scope of the permit.

3) Does not adhere to the principles of honest trading or violates the interests of the client.

25.3. If the need arises to protect public interest in cases referred to in Paragraph 2, the commission may suspend the permit for a period of not more than one month and during that period rule on whether to revoke or renew the permit.

25.4. The ruling referred to in Paragraph 1 is issued after a hearing is held.

Article 26. An authorized representative of the commission has the right of entry into the offices of the entity operating the brokerage enterprise, and into the enterprise itself, and the right to inspect books, documents, and other records with the object of ascertaining that the activities of the entity operating the brokerage enterprise are consonant with the requirements specified in the permit.

Article 27. The permit legally expires as a result of:

- 1) Demise of the individual in charge of a single-person enterprise.
- 2) Closing of the brokerage enterprise.
- 3) Announcement of the bankruptcy of the head of the brokerage enterprise.

Article 28.1. The initiation of brokerage operations on the territory of the Republic of Poland by a foreign entity requires obtaining a permit under the guidelines of the present law.

28.2. The provisions of Paragraph 1 do not infringe upon the provisions of other laws defining the rules for permitting foreign entities to engage or participate in business activities on the territory of the Republic of Poland.

Article 29.1. Ownership of shares or stock or investing in more than one partnership operating a brokerage enterprise is prohibited. A person or a legal entity may not simultaneously manage more than one brokerage enterprise.

29.2. Paragraph 1. does not apply to the State Treasury.

Article 30.1. The entity operating a brokerage enterprise may not provide services relating to trading in the securities issued by an entity to which its relationship is that of a parent company or a subsidiary.

30.2. The provisions of Paragraph 1 also apply to the securities issued by an entity operating a brokerage enterprise if it trades in them on its own account.

Article 31. The entity operating a brokerage enterprise may not render services relating to trading in the securities issued by another entity to which its relationship is that of a parent company or a subsidiary.

Article 32.1. The commission chairman shall issue directives detailing the record-keeping and accounting procedures of and guidelines for brokerage enterprises with respect to securities transactions.

32.2. The commission chairman may issue a directives detailing the rules for the charging of brokerage commissions.

32.3. The minister of finance may issue an executive order, in consultation with the commission chairman, defining the specific requirements that must be met by the accounting procedures of the brokerage enterprise.

Article 33.1. The professional provision of consultation relating to public trading in securities requires a separate permit issued by the commission on the same principles as permits for operating a brokerage enterprise.

33.2. The consultant should be named on the List of Brokers.

33.3. The commission chairman shall issue a directive detailing additional requirements as to the qualifications for conducting financial analyses of securities trading that must be met by a consultant in order to be eligible for the permit.

#### **Chapter 4. Brokers' Self-Government**

Article 34.1. The Association of Securities Brokers is established as a self-government of brokers, hereinafter referred to as "the self-government."

34.2. Membership in the self-government is mandatory once a broker's name is included in the List of Brokers.

Article 35. The Association of Securities Brokers has legal entity status.

Article 36. The following, in particular, is the scope of activities of the self-government:

- 1) Representing brokers and protecting their professional interests.
- 2) Cooperating with the commission and other government agencies in formulating and applying laws governing public trading in securities.
- 3) Advanced training of brokers.
- 4) Promoting brokerage skills and the principles of the professional ethics of brokers.
- 5) Monitoring the professional performance of brokers and in particular ruling on matters concerning their professional ethics.
- 6) Exercising other duties specified by legal regulations.

Article 37. The bodies of the self-government are: the Congress of Brokers, the Council of Brokers, the Auditing Committee, and the Disciplinary Court.

Article 38.1. The term of office in the self-government bodies is two years.

38.2. Elections to self-government bodies take place by direct and equal vote, in secret balloting, and there is no limit on the number of candidates.

Article 39. To the extent to which these are not regulated in the present law, the powers, organizational structure, operating procedure, financing, and procedure for making declarations on behalf of the self-government are defined in the statute of the self-government, which is confirmed by the commission.

Article 40.1. Supervision over the self-government is exercised by the commission.

40.2. The commission may, in particular:

- 1) Suspend for 14 days the resolutions of self-government bodies if they glaringly violate the provisions of law or of the statute of the self-government.
- 2) Appeal to a voivodship court against resolutions of self-government bodies which violate the provisions of law or of the statute of the self-government, or if they were adopted contrary to said provisions.
- 3) Request a self-government body to examine a particular case; a resolution concerning that case should be adopted within one month.

40.3. In cases referred to in Paragraph 2, Point 2), the voivodship court either rejects the appeal or waives the resolution appealed against and transmits the matter for reconsideration to the proper self-government body along with directives as to the manner in which it is to be resolved. The legal ruling of the court is binding on the self-government.

40.4. The self-government is obligated to notify the commission about meetings of its bodies.

Article 41. Brokers are liable to disciplinary responsibility before the Disciplinary Court for deeds:

- 1) Consisting in culpable improper exercise of the legally or contractually prescribed brokerage duties.
- 2) Conflicting with the principles of professional ethics.

Article 42.1. Disciplinary penalties are as follows:

- 1) Admonition.
- 2) Reprimand.
- 3) A fine.
- 4) Barring from an elected office in Brokers' self-government for up to two years.

42.2. The fine may be imposed up to the amount of the remuneration paid to the broker over the last three months. The revenues from such fines are allocated to a charitable purpose defined by a resolution of the Council of Brokers.

42.3. The Disciplinary Court notifies the commission about the fine imposed on the broker. The commission inserts a corresponding mention in the broker's dossier.

42.4. The Disciplinary Court may, in the cases referred to in Article 41, request the commission to delete the name of a broker from the List or to suspend him.

42.5. In the event that the commission does not issue the ruling referred to in Paragraph 4, the Disciplinary Court may order a disciplinary penalty.

Article 43.1. The accuser in proceedings before the Disciplinary Court is the disciplinary prosecutor.

43.2. Disciplinary proceedings are instituted on the recommendation of the disciplinary prosecutor.

43.3. The defendant may choose a defender from among brokers.

Article 44. The rulings of the Disciplinary Court may be appealed to the commission within 14 days from the date the ruling is presented in writing together with a rationale.

Article 45.1. Disciplinary proceedings may not be instituted:

- 1) After the elapse of a year from the date the offense is committed.
- 2) After the elapse of six months from the date on which the disciplinary prosecutor was notified of the offense.

45.2. If, however, the offense bears the hallmarks of a crime, the length of the statute of limitations for disciplinary penalties is not shorter than the period specified by criminal law.

45.3. The length of the statute of limitations for disciplinary penalties is interrupted by any related activity of the disciplinary prosecutor.

Article 46. Mention of the imposition of a penalty is expunged ex officio from personal records after three years from the date:

- 1) On which the disciplinary ruling imposing the penalty of admonition or reprimand or a fine becomes valid.
- 2) On which the period of suspension of brokerage privileges expires.

Article 47. Rulings issued by members of the Disciplinary Court are subject solely to legal regulations.

Article 48. The Congress of Brokers shall determine the specific nature of disciplinary proceedings.

#### Chapter 5. Introducing Public Trading in Securities

Article 49. Introducing public trading in securities requires the approval of the commission.

Article 50.1. With the object of obtaining consent for introducing public trading in securities, the issuer or the distributor submits to the commission an application containing:

- 1) Name and address of the (company) issuer.
- 2) Basic data on the issue, and in particular nature of the security issued, size and value of issue, and expected date of issue.
- 3) Designation of the entity operating the brokerage enterprise which introduces trading in the securities.

50.2. The application should come together with a copy of the prospectus of the issue and a copy of the statute and of the resolution or declaration of issue submitted by the proper office of the issuer.

50.3. The commission grants the approval referred to in Article 49 within two months from the date the application is filed.

50.4. The person or entity referred to in Paragraph 1 is obligated, after obtaining the approval of the commission, to deposit all the securities included in the concerned issue at a single bank or another institution appointed for that purpose.

50.5. The Council of Ministers shall issue an executive order defining the requirements which must be met by the prospectus.

Article 51. After obtaining the approval for introducing securities into public trading the issuer or distributor is obligated to publish in two Polish national dailies data enabling potential buyers to evaluate the financial status, profits and losses, and business prospects of the enterprise as well as the nature of the rights embodied in the securities of the given kind, to the extent defined by the commission.

Article 52.1. The issuer or distributor of securities into public trading is obligated to immediately notify the commission about any change in the data contained in the prospectus, and also to periodically provide the information specified by the commission within the time limits it indicates.

52.2. The commission may obligate the person or entity referred to in Paragraph 1 to publish supplementary information in addition to that contained in the prospectus within a time limit of seven days.

52.3. In the event of failure to implement the obligations referred to in Paragraphs 1 and 2 the commission may waive its ruling of consent to the introduction of securities into trading.

52.4. Agreements concluded before the ruling referred to in Paragraph 3 becomes valid remain valid.

Article 53. A record of the securities introduced into public trading is kept by the commission, by the procedure and according to the guidelines defined in the directives of the commission chairman.

#### Chapter 6. Secondary Public Trading in Securities

Article 54.1. Secondary public trading in securities takes place at securities exchanges operated by joint stock companies.

54.2. The Council of Ministers may issue an executive order defining forms of regulated secondary public trading in securities outside the securities exchanges, as conducted by the entities operating brokerage enterprises in accordance with the guidelines of Article 57.

54.3. The provisions of Paragraphs 1 and 2 do not apply to:

- 1) Transfer of rights to securities directly between individuals.
- 2) Transfer of rights to securities between a parent company and a subsidiary, unless said transfer follows the procedure referred to in Article 1.1, without mediation by an entity operating a brokerage enterprise.

54.4. The commission may grant a permit for a specified period of time to an entity operating a brokerage enterprise to engage in secondary public trading in specified securities, on condition that the requirements mentioned in Article 57 are satisfied.

Article 55.1. Stock in companies which operate securities exchanges may be acquired solely by entities operating brokerage enterprises, the state treasury, and the banks.

55.2. A company which operates a securities exchange is obligated to issue a sufficient number of shares to enable the entities referred to in Paragraph 1 to acquire them.

Article 56.1. Share certificates in companies which operate securities exchanges must without exception be issued in the names of the share owners.

56.2. Shares belonging to a share owner who has ceased to be active as a broker are subject to retirement.

Article 57. A securities exchange should assure:

- 1) Concentration of supply and demand for the securities admitted to the exchange, with the object of establishing a uniform market price.
- 2) Safe and efficient handling of transactions and settlements of accounts.

- 3) Dissemination of uniform information serving to appraise the actual value of the securities admitted to the exchange.

Article 58.1. The operation of a securities exchange requires a permit. The permit is issued by the chairman of the Council of Ministers on the recommendation of the commission.

58.2. To obtain the permit the joint stock company intending to operate the securities exchange files with the commission an application which should contain:

- 1) Name and address of the company.
- 2) Data on the individuals responsible for opening and managing the securities exchange.
- 3) Anticipated size of own and loan capital intended to open the securities exchange and method of financing the operations of that exchange.
- 4) Commitments from at least 10 entities operating brokerage enterprises to participate in the activities of the securities exchange.
- 5) Data on the amount and structure of the capital of the company intending to operate the securities exchange.
- 6) Data on the anticipated location of the securities exchange and on the available technical facilities and equipment, especially those assuring communication with the National Depository referred to in Article 71.

58.3. The application should be filed together with a copy of the statute of the company, a draft of the house rules of the proposed securities exchange, and economic and financial project feasibility analysis.

Article 59. The statute of the company intending to operate a securities exchange should contain, in particular:

- 1) Requirements for admitting trading in securities on the exchange.
- 2) Method and procedure for resolving disputes concerning the course of transactions at the stock exchange.
- 3) Name of the body defining the house rules of the exchange.

Article 60. The house rules of the securities exchange should define, in particular:

- 1) Kinds of exchange transactions.
- 2) Procedure for trading in securities at the exchange.
- 3) Requirements and procedure for quoting the prices of securities on the exchanges as well as for suspending or discontinuing the quotations.

- 4) Days and hours when the exchange is open.
- 5) Rights and requirements for attending the exchange.
- 6) Procedure for determining and making public prices of securities.
- 7) Procedure for classifying the securities quoted at the exchange.
- 8) The information system of the exchange.
- 9) The size of the regular annual fee for using the facilities of the exchange.
- 10) Transaction fees and the procedure for computing them.
- 11) A system for keeping records of transactions and account settlements at the exchange.

Article 61. Any revisions of the statute or of the house rules of the exchange, or changes in the data contained in the application referred to in Article 58, may be carried out only with the consent of the commission.

Article 62. In the event of failure of a securities exchange to adhere to the binding regulations, the commission is authorized to request the chairman of the Council of Ministers to suspend the operating permit of the exchange.

Article 63.1. The company operating the securities exchange may not do so for profit-earning purposes. Its shareowners have no right to participate in the annual profits.

63.2. The sole purpose of the company operating the securities exchange is to operate that exchange.

Article 64.1. The parties to exchange transactions may be solely the share owners in the company referred to in Article 55 who operate brokerage enterprises.

64.2. Legal activities intended to perform an exchange transaction are invalid if performed by persons other than those referred to in Paragraph 1.

64.3. Agreements intended to artificially raise or lower the prices of securities are prohibited.

Article 65.1. A company operating a securities exchange uses contributions by share owners to establish a common insurance fund to insure against civil responsibility for market transactions.

65.2. The rules for defining the size of contributions to the fund and for utilizing the fund are determined by a general meeting of the owners of shares in the company operating the securities exchange.

Article 66.1. The company operating a securities exchange is obligated to appoint a supervising council, henceforth referred to as "the bourse council."

66.2. The bourse council consists of a chairman and 10 to 14 members of whom one-half are appointed from among persons other than share owners in the company—from among issuers, securities buyers, and representatives of chambers of commerce and industry, or financial institutions.

Article 67. On the recommendation of the governing board the bourse council adopts house rules for the securities exchange, which are approved by the general meeting. The house rules should contain the data referred to in Article 60.

Article 68.1. A single-person company of the state treasury is established in order to manage the Warsaw Securities Exchange.

68.2. The provisions of Article 58 and Article 63.2, do not apply to the exchange referred to in Paragraph 1.

Article 69.1. Securities admitted to trading at one securities exchange may be simultaneously traded at another exchange upon the permission of the commission.

69.2. Refusal to admit securities for trading at a securities exchange may take place only after the elapse of two years from the effective date of the present law.

Article 70. The company which operates a securities exchange has the obligation and the sole right to state "Securities Exchange" on its letterhead and otherwise to identify itself in that capacity.

Article 71.1. A requirement for admitting securities for trading at a securities exchange is their deposition at the National Securities Depository.

71.2. The National Securities Depository is operated by the company referred to in Article 68.

71.3. The company referred to in Paragraph 2 may, upon the approval of the chairman of the Council of Ministers, transfer its powers to operate the National Securities Depository to other entities having legal entity status.

71.4. The purpose of the company referred to in Paragraph 2 as regards operating the National Securities Depository include in particular:

- 1) Safekeeping and recording the securities admitted to stock-exchange trading.
- 2) Maintaining a registry of deposit accounts for those authorized to store their securities therein.
- 3) Recording changes in title of ownership for deposit accounts due to transactions in securities.
- 4) Monitoring the correspondence between the size of a securities issue and the number of securities in circulation.
- 5) Servicing deposit accounts in connection with the implementation of the obligations of issuers toward the owners of securities.

71.5. The Council of Ministers shall issue an executive order defining the operating guidelines for the National Securities Depository.

#### Chapter 7. Acquisition of Substantial Blocks of Shares

Article 72.1. Anyone who becomes the owner of stock admitted for public trading in a single company to an extent enabling him or her to control, respectively, 10, 20, 33, 50, 66, or 75 percent of voting rights at the general meeting of stockholders, or to exceed these proportions, is obligated to notify accordingly within seven days the commission, the Antimonopoly Office, and the company concerned.

72.2. The acquisition or ownership of stock by a subsidiary is considered to be acquisition or ownership by the parent company.

72.3. Within one month from the date of a regular general meeting of stockholders or from receipt of the notice referred to in Paragraph 1 the company is obligated to publish in two Polish national dailies information on the names of the individuals or companies owning 10 or more percent of the stock referred to in Paragraph 1.

Article 73.1. Anyone who intends to acquire, all at once or through a series of transactions, stock in a company to such an extent as to become within 12 months the owner of stock in an amount enabling him to control 33 or more percent of voting rights at the general meeting of stockholders is obligated to do so only by means of a public notice asking stockholders to sell or exchange their stock, hereinafter referred to as "the notice."

73.2. The intention of a subsidiary to acquire or own stock is viewed as the intention to acquire or own by the parent company.

73.3. The intention to publish the notice should be communicated to the commission and to the stock exchange at which the stock in question is quoted.

73.4. The communication, that is, notification, should contain:

- 1) The name and address of the company and person ordering the notice.
- 2) The securities which are the subject of the notice.
- 3) The number of shares which the issuer of the notice intends to acquire and information on the ultimate size of the block of shares which the issuer of the notice intends to reach.
- 4) The intended period of time for which the notice applies and the deadline for registering to sell or exchange stock.
- 5) The price offered; the value of the articles or rights which the issuer of the notice intends to exchange for the stock is also regarded as a price.

6) Mention of permission of appropriate agencies to acquire the stock, if so required by separate regulations.

73.5. The notice should be accompanied by the certification of a bank or another institution to the effect that the issuer of the notice has deposited therein a collateral worth at least 50 percent of the value of the intended transaction.

Article 74. Within seven days from receipt of the notification the commission may, upon consulting the Antimonopoly Office, prohibit the publication of the notice in the event that the provisions of the present law or of the Law on Counteracting Monopoly Practices are violated, or that important interests of the national economy are threatened, or that the price offered in the notice is 10 percent lower than the average market price for the last three months prior to the publication of the notice.

Article 75. In the event of violation of the provisions of the present law by the issuer of the notice, the commission may order revocation of the notice prior to the expiration of the deadline for registering shares for sale or exchange; then previous registrations become invalid.

Article 76. The issuer of the notice may be represented solely by the entity operating the brokerage enterprise.

Article 77.1. The publication of the notice should be in a public manner, through announcements at the stock exchange and in two Polish national dailies.

77.2. The published notice should contain the information referred to in Article 73, Paragraphs 4 and 5, and name the entity operating the brokerage enterprise representing the issuer of the notice.

Article 78. At the time the notice is published the stock exchange halts all transactions in the stock named in the notice. Any transaction in such stock performed at that time is legally invalid. This also applies to all transactions outside the stock exchange if they are admissible in public trading.

Article 79.1. The time limit for persons wishing to register their stock for sale or exchange in response to the notice may not be less than 25 days.

79.2. Prior to the expiration of the time limit referred to in Paragraph 1 the issuer of the notice may change the terms of the notice but is obligated, upon notifying the commission accordingly in advance and in the event that there are no objections from the commission, to extend the time limit referred to in Paragraph 1 so that at least 15 days pass between the day on which the change in terms of the notice is made public and the expiration of that time limit.

79.3. Cancellation of the notice is possible only in cases that are envisaged either in the present law or by a directive of the commission.

Article 80.1. Prior to the expiration of the time limit referred to in Article 79, another notice concerning the same stock may be published, provided that it offers a price equal to at least 105 percent of the price offered in the earlier notice.

80.2. In the event that that second notice is published, the issuer of the earlier notice may either continue or cancel it or publish another notice.

Article 81.1. The issuer of the notice registers persons who offer their stock for sale or exchange through the mediation of a brokerage enterprise in an open registry kept for this purpose by the stock exchange at which the stock in question is quoted.

81.2. Persons offering their stock for sale or exchange may specify the price they demand.

81.3. Persons who have registered their stock for sale or exchange may demand canceling their registration by notifying accordingly the brokerage enterprise which they had previously instructed to make corresponding entries in the registry.

81.4. Once the notification referred to in Paragraph 3 is made, the registration is deemed invalid, unless the notification is made following the expiration of the time limit mentioned in the notice. In cases of doubt it is considered that the registration took place prior to said expiration.

Article 82. Disclosure of information on the persons or companies registering their stock for sale or exchange as well as on the number of shares offered and the price demanded is prohibited.

Article 83. Persons responding to the notice are obligated to deposit with the brokerage enterprise the shares which they intend to sell or exchange, or to present a certification of the deposition of these shares at another location.

Article 84.1. Following the expiration of the time limit specified in the notice the stock exchange prepares a list of registered entries specifying the number of shares and their proposed prices, without identifying the persons registered. The list is transmitted to the issuer of the notice.

84.2. The issuer of the notice is obligated to purchase all the shares presented for sale or exchange at the price specified in the notice.

84.3. In the event that the number of shares presented is greater than that specified in the notice, they are purchased as proportionately as possible to the number of shares presented by each registrant, on disregarding fractional shares.

84.4. In the event that the registrant specifies his or her own price for the stock presented, the issuer of the notice may purchase the stock at the price offered.

Article 85. The company whose stock is the subject of the notice may not take any steps that might complicate or impede accomplishing the objective referred to in Article 73, Paragraph 4, Point 3), prior to the expiration of the time limit for registering the shares presented for sale or exchange.

Article 86. Anyone who has become a shareowner without publishing the notice referred to in Article 72 or who has acquired shares without meeting the requirement referred to in Article 73 may not exercise the voting rights associated with these shares.

Article 87.1. Anyone who has become the owner of shares in a single company representing more than 50 percent of the voting rights at a general meeting, is obligated, before exercising any rights associated with these voting rights, to publish a notice asking other shareowners to register for the sale or exchange of the remaining shares in the company.

87.2. The price offered in the notice referred to in Paragraph 1 may not be lower than the highest price paid by the issuer of the notice for these shares during the last 12 months, and in the event of absence of such price, it may not be lower than the average market price for the last 30 days prior to the publication of the notice. The value of the assets or rights which the issuer of the notice intends to exchange for shares is also considered as a price.

Article 88. The provisions of the present chapter do not apply in the event that shares are acquired by the State Treasury, with the exception of the provisions of Article 72.

## Chapter 8. Mutual Funds

Article 89.1. Mutual funds serve for the collective investment of money in securities.

89.2. The provisions of the present chapter apply to mutual funds with a variable number of participants and nontransferable participation units.

89.3. Mutual funds may be administered solely by the mutual fund societies, hereinafter referred to as "the societies," which are supervised by the commission.

Article 90.1. A mutual fund society may be established solely in the form of a joint stock company with offices on the territory of the Republic of Poland. A legal entity may be a single-person founder of the company.

90.2. The company referred to in Paragraph 1 has the obligation and right to identify itself as "A mutual fund society."

90.3. In matters not regulated in the present law the company referred to in Paragraph 1 is governed by the provisions of the Commercial Code.

Article 91.1. The purpose of the company is solely to provide services consisting in investing the entrusted

funds, kept in one or more special investment accounts, and in administering these funds.

91.2. The society may not handle or administer funds having other components than those specified in Article 102.

Article 92.1. The share capital of the company should amount to at least 1,00,000,000 zlotys [Z] and derive in its entirety from monetary subscriptions.

92.2. The company may issue solely share certificates in the names of the investors. The company may not exchange these securities for bearer securities.

92.3. The debt of the company may not exceed 10 percent of its own capital. The value of the administered funds is not credited to the debt.

Article 93.1. The founder of the company may not be a member of its governing board, nor may he own more than 10 percent of its share capital.

93.2. The company may not use the assets of the mutual fund to acquire securities issued by a member of the governing board or by another company, whether a parent company or a subsidiary, with which that member is associated, entity existing in a relationship of domination or dependence with that member.

Article 94. Members of the supervising council are appointed and recalled by the general meeting with the approval of the commission.

Article 95.1. The company is obligated to publish at least once every fiscal year separate reports on the status of every individual investment fund in two Polish national dailies.

95.2. The commission may make approval of the statute of the company or of revisions of that statute contingent on incorporating provisions requiring the publication of suitable reports more often than once a year.

95.3. The provisions of Paragraphs 1 and 2 do not infringe on the regulations requiring the publication of financial statements and other data on the status of joint stock companies.

Article 96. The minister of finance may issue an executive order defining special requirements that must be met by the accounting system of the societies.

Article 97. The status of the company, the house rules of the fund, and the selection of the trustee bank referred to in Article 112 are subject to combined approval by the commission. The commission also approves or disapproves of any revision of the statute or house rules, and any change of bank.

Article 98. In the event that a mutual fund society fails to adhere to the provisions of the present law, the commission may move for dissolution of the society.

Article 99. The company administers the funds in its own name but for the common account of fund shareholders.

Article 100. The company may not invest fund assets in the securities issued by itself.

Article 101.1. The society should act in the best-conceived interest of the fund shareholders.

101.2. The purpose and operating principles of the fund, and in particular the issuance and withdrawal of participation units, the computation of the net value of fund assets, and the rules for making public information on the status of the fund, are determined by the house rules adopted by the general meeting and approved by the commission.

101.3. The house rules are subject to publication in two Polish national dailies.

Article 102.1. The components of the fund may be rights to securities.

102.2. The components of a fund may not be transferred to another fund.

102.3. The purpose for which a fund is established may not be changed.

Article 103.1. The company issues to the fund shareholder a certificate specifying the amount of the monies subscribed. The certificate should specify:

- 1) Date issued.
- 2) Name of the fund.
- 3) Number of the purchased units of participation in the fund.

103.2. A participation unit referred to in Paragraph 1, Point 3), is the title to a share in the income of the mutual fund in accordance with the fund's house rules.

103.3. The certificate issued is subject to registration by the company.

103.4. Participation units are inalienable and cannot be charged interest.

Article 104.1. The society is obligated to pay for the returned participation units an amount equivalent to the corresponding part of the fund's net assets on the day the units are returned.

104.2. The payment takes place on the schedule specified by the society, but not less often than once a month.

104.3. The first payment is disbursed within not more than six months from the date the fund is established.

Article 105. The society is obligated to sell without any restrictions participation units at the price ensuing from the value of the net assets of the fund on the day of issue,

proportionately to the total number of the existing units of participation in the fund.

Article 106. When selling or retiring participation units the society may charge a fee in accordance with the provisions of the statute.

Article 107.1. At least 90 percent of the value of the fund's assets should be invested in the securities admitted for public trading or in the securities issued by the State Treasury or the National Bank of Poland.

107.2. Up to 10 percent of the value of the fund's assets may be invested in other securities on condition that their price can be determined at least as often as needed to compute the net value of the fund's assets.

Article 108. Not more than 5 percent of the value of the fund's assets may be invested in securities from any single issue.

Article 109.1. All income from invested capital, minus the statutory remuneration of the company, augments the value of the fund's assets.

109.2. The statute of the company and the house rules of the fund may provide for the company's right to charge other expenses as well.

Article 110. The society makes public at least once a month information on the status of the funds.

Article 111.1. With the object of liquidating the fund the society is obligated to notify accordingly the commission and publish in two Polish national dailies its intent to liquidate, upon specifying the time limit within which it is possible to withdraw the participation units; that time limit should be no shorter than six weeks, though.

111.2. Within two weeks from the expiration of the time limit referred to in Paragraph 1 the society is obligated to pay for the retired participation units a compensation that is at least proportional to the amount derived from the sale of the fund's assets and that should, however, be not lower than the value of the fund's assets on the day the intent to liquidate the fund is made public.

Article 112.1. The society entrusts the fund's assets for safekeeping to a trustee bank.

112.2. The trustee bank is obligated to:

- 1) Store securely the fund's assets.
- 2) Make sure that the sale and retirement of participation units are consonant with the law and the house rules of the fund.
- 3) Compute the net worth of the fund's assets in accordance with the law and the house rules of the fund.
- 4) Execute the instructions of the society, unless these conflict with the law or with the house rules of the fund.

5) Make sure, in transactions concerning the fund's assets, that the amounts due be paid within the time limits specified in the house rules.

6) Make sure that the income of the fund be made public in consonance with the law and the house rules of the fund.

112.3. The agreement to entrust the fund's assets to the bank may moreover provide for other responsibilities of the trustee bank.

Article 113.1. The trustee bank may not be a founder of the mutual fund society or a buyer of the securities issued by the society, nor may it administer the society.

113.2. The society may not allocate the fund's assets on the acquisition of securities issued by the bank referred to in Paragraph 1 or by the parent company or subsidiary of the bank.

#### Chapter 9. Civil and Criminal Responsibility

Article 114.1. The securities issuer is responsible for the damages caused to anyone by a defect in the securities or by inaccurate or dishonest information contained in the legally required documents, unless neither the issuer nor the person or entity for whom or which he is responsible is culpable.

114.2. The responsibility referred to in Paragraph 1 is also borne by the person or entity introducing the securities into public trading.

114.3. The responsibility referred to in Paragraphs 1 and 2 may not be restricted or precluded in advance.

Article 115.1. The issuer of the certificate of deposit is responsible for the damages caused to anyone by a defect in that certificate or for the utilization of that certificate by an unauthorized person, unless the damages occurred solely through the fault of the injured party or of a third person for whom the issuer bears no responsibility.

115.2. If the issuer acts on behalf of another person, their responsibility is joint.

Article 116.1. In the event of revisions of the data contained in the prospectus or of other information about a securities issue that affects the worth or price of the securities, the buyer of securities in primary public trading may renounce the purchase agreement, unless he acted in bad faith.

116.2. The right to renounce the agreement expires after one month from the date the revisions are announced by the procedure defined by the law or by a ruling of the commission.

Article 117. Whoever introduces into public trading securities not admitted to such trading is liable to imprisonment for up to two years, restriction of liberty, or a fine.

Article 118. Whoever in preparing a prospectus provides therein incorrect or incomplete information on the financial status of the issuer or of the person or entity introducing the securities into trading, is liable to the penalty of imprisonment for from six months until five years.

Article 119.1. A broker who discloses information constituting a professional secret is liable to imprisonment for up to three years.

119.2. Whoever utilizes inside information in securities trading is liable to imprisonment for from six months to five years.

119.3. Inside information is construed by the law as information which has not been made public and which, once disclosed, has the potential of markedly influencing the worth or price of securities.

Article 120. Whoever engages in public trading in securities without the required permit is liable to the penalty of restriction of liberty or a fine.

Article 121. Whoever engages in the activities referred to in Chapter 8 without the approval required by the provisions of the present law is liable to imprisonment for up to two years, restriction of liberty, or a fine.

Article 122.1. Whoever fails to make the notification referred to in Article 72, Paragraphs 1 and 3, and also whoever fails to exercise the obligation referred to in Article 73.1., in Article 85, and in Article 86, or discloses the information referred to in Article 82, is liable to the penalty of restriction of liberty for up to three months or a fine.

122.2. Whoever, contrary to the prohibition referred to in Article 29.1, owns stock or a share in more than one company engaging in brokerage operations, is liable to the penalty of restriction of liberty for up to three months or a fine.

122.3. Also liable to this penalty is whoever commits the offense referred to in Paragraph 2 on behalf of a legal entity.

#### Chapter 10. Amendments of Binding Provisions

Article 123. The following amendments are incorporated in the Ordinance of the President of the Republic of 27 June 1934 on the Commercial Code (Dz.U., No. 57, Item 502, 1934; No. 57, Item 321, 1946; No. 34, Item 312, 1950; No. 16, Item 94, 1964; No. 13, Item 95, 1969 No. 41, Item 326, 1988; and No. 17, Item 98, 1990, and No. 51, Item 298):

1) The original text of Article 316 is now denoted as Paragraph 1 and the following Paragraph 2 is added:

“Paragraph 2. With the reservation of the provisions of the Law on Public Trading in Securities and

Mutual Funds, the provisions below apply to the gathering of capital by means of public notices.”

2) The following Paragraph 4 is added to Article 365:

“ Paragraph 4. Voting rights relating to own shares are not exercised.”

Article 124. In the Law of 16 December 1972 on the Turnover Tax (Dz.U., No. 43, Item 191, 1983; No. 12, Item 50, 1985; No. 3, Item 12, 1989; No. 74, Item 443, 1989; and No. 9, Item 30, 1991), Article 8 is rewritten as follows:

“Article 8.1. In brokerage operations, activities associated with the administration of mutual funds, and activities ensuing from an agency contract, a consultancy agreement, or a contract of sale on commission, trading is constituted by the commission fee and other remuneration for services rendered, with the proviso of Paragraph 2.”

2. If the entity operating a brokerage enterprise purchases securities on its own behalf and for its own account with the object of their subsequent resale, trading is constituted by the difference between the income derived from the sale of the securities and the price at which these securities had been previously bought. The latter price is determined in that the purchasing cost for a given year is augmented by the value of the balance of the securities at the beginning of the year minus the value of the securities remaining at year end. If the purchase price of the remaining securities is higher than their value as determined according to their averaged stock-exchange quotation for the December of the year in question, or for the last month prior to the preparation of the financial statement (balance sheet), the value of these securities is determined according to that stock-exchange quotation.”

Article 125. In the Law of 16 December 1972 on the Income Tax (Dz.U., No. 27, Item 147, 1989, No. 74, Item 443, 1989; and No. 9, Item 30, 1991), in Article 9, Paragraph 1, Point 25) is reworded as follows:

“24) Income from the sale of shares in joint stock companies and stocks, bonds, and other securities, except when that sale is the object of business activity.”

Article 126. In the Law of 31 January 1989 on the Income Tax on Legal Entities (Dz.U., No. 3, Item 12; No. 54, Item 320; and No. 74, Item 443, 1989; and No. 9, Item 30, 1991), Article 9, Paragraph 1, Point 9) is reworded as follows:

“9) Income from the sale of shares in joint stock companies and stocks, bonds, and other securities, except when that sale is the object of operating activities.”

Article 127. In the Law of 15 February 1989 on Foreign Exchange (Dz.U., No. 6, Item 33; and No. 74, Item 441), the following Subpoint d) is added to Article 9, Point 1):

"d) Exportation by Polish and foreign nationals of securities whose public trading is regulated by a separate law."

#### Chapter 11. Interim and Final Provisions

Article 128.1. Within two months after the effective date of the present law the minister of ownership transformation shall, in consultation with the minister of finance, establish on behalf of the State Treasury the one-person company referred to in Article 68.

128.2. The State Treasury shall sell shares in the company referred to in Paragraph 1 on demand by the entities operating brokerage enterprises as well as by banks.

128.3. Members of the first bourse council are appointed by the minister of ownership transformation in consultation with the minister of finance.

128.4. The first governing board of the company referred to in Paragraph 1 shall consist of the chairman plus two members appointed by the minister of ownership transformation for a term of three years.

Article 129. The First Congress of Brokers shall be convened by the commission within six weeks from the day on which the first 50 brokers are entered on the List of Brokers.

Article 130.1. The securities already publicly traded on the effective date of the present law will be governed by the provisions of the present law after the expiration of six months from its effective date. During the intervening period the issuers of these securities are obligated to meet the corresponding requirements set forth in Articles 49, 50, and 51.

130.2. The condition referred to in Article 50.4., is considered satisfied if at least three-fourths of the securities referred to in Paragraph 1 are presented for deposit.

Article 131. Entities engaging in public trading in securities on the effective date of the present law may continue their operations for three months after said effective date without meeting the requirements referred to in Chapter 3.

Article 132. The present law takes effect on the day of its publication.

President of the Republic of Poland: L. Walesa

**Law on Local Elections**

92BA0256A Bucharest *MONITORUL OFICIAL*  
in Romanian 28 Nov 91 pp 1-11

[“Text” of Law on Local Elections, passed in Bucharest  
on 26 November 1991]

[Text] The Romanian Parliament adopts the present  
law.

**CHAPTER I****General Provisions****Article 1**

Local councils and mayors are elected by universal,  
equal, direct, secret, and freely expressed vote. County  
councils are elected by indirect vote.

County and local councils are elected in electoral dis-  
tricts by votes cast for ballot lists.

Mayors of communes and towns are elected in electoral  
districts by votes cast for individual names on ballots.

**Article 2**

Romanian citizens, independently of nationality, race,  
language, religion, sex, political conviction or profession,  
exercise their voting rights in an equal manner.

**Article 3**

Romanian citizens who have reached the age of 18 are  
entitled to vote, including those who reach that age on  
election day.

Each voter is entitled to a single vote in local council and  
mayoral elections.

The right to vote is exercised only in the commune,  
town, or municipality in which the voter resides.

**Article 4**

Citizens who are entitled to vote and who have reached  
the age of 23 are qualified to be elected as council  
members or mayors.

Only persons who reside within the limits of the admin-  
istrative-territorial unit to which they are to be elected  
can become candidates.

**Article 5**

The following are not eligible to vote:

- a) Insane or mentally deficient persons placed in  
custody;
- b) Persons whose electoral rights have been denied for  
a duration established by court order.

The following are not eligible to be elected:

- a) Active duty military personnel, judges, or district  
attorneys;
- b) Those who belong to the categories stipulated  
under subparagraphs a) and b) of the previous  
paragraph;
- c) Those sentenced by final court order for abuses  
committed in political, judicial, or administrative  
functions, for violations of the fundamental rights  
of man, and for other intentional offenses, if they  
have not been rehabilitated;
- d) Those who hold contracts with the respective  
administrations to execute projects, render ser-  
vices, or provide supplies, either directly or  
through middlemen.

**Article 6**

Candidacies for local and county councils and for mayor  
are filed by legally constituted political parties and  
organizations. Under the conditions of the present law,  
independent candidacies can also be filed.

Any one person can file a candidacy for a single local  
council and for a single mayor's office.

**Article 7**

Election dates are established by government decision at  
least 60 days before election day.

**CHAPTER II****Organization of Elections for Local Councils and for  
Mayors****Section 1****Electoral Districts****Article 8**

Each commune, town, and municipality constitutes an  
electoral district for the election of local councils and  
mayors.

**Article 9**

Electoral districts in each county and in the Bucharest  
municipality are numbered by police commissioners  
within five days from the establishment of election dates.

**Article 10**

Electoral districts for the election of local councils and  
mayors are brought to the attention of the population by  
local councils within 10 days from the establishment of  
election dates.

**Section 2**

**Voting Sections**

**Article 11**

Voting sections are organized in localities, as follows:

- a) In localities with populations of more than 2,000 inhabitants, one voting section for each 1,000-2,000 inhabitants;
- b) In communes with populations of less than 2,000 inhabitants, one single voting section.

Voting sections can also be organized in villages or groups of villages with populations of up to 1,000 inhabitants, located at a distance greater than 5 km from the voting section of the commune's location.

Voting sections for active duty military personnel will be organized at military units if they have at least 50 voters.

**Article 12**

Voters cast ballots in the same voting sections for local councils and for mayors.

**Article 13**

Voting sections are defined and numbered by city and commune councils within 20 days after the establishment of election dates.

Mayors bring to the attention of the voters the definition and numbering of voting sections within the deadline stipulated in paragraph 1, indicating at the same time the location of the voting sections.

**Section 3**

**Voter Lists**

**Article 14**

Voter lists include all citizens entitled to vote who reside in the locality in which elections are organized. Voter lists are compiled by mayors.

They are separately compiled for each voting section by commune and village, and in towns, municipalities, and sectors of the Bucharest Municipality, by street; and they will include in alphabetical order the voters' first and last name, age, and address, as well as the number of the electoral district of the voters.

Voter lists are signed by mayors and by secretaries.

Military personnel on active duty, who are entitled to vote, will be registered in special lists compiled by military units and signed by their commanders.

**Article 15**

A voter can be registered in only one voter list.

**Article 16**

Mayors will post voter lists in a public area and in a visible manner at least 30 days before the election date.

Posting locations, as well as the procedures for verifying the list registrations, will be brought to public attention by mayors through any means of publicity.

Voter lists will also be posted at each voting section for those who vote in that section.

Original copies of voter lists are kept at the courthouse that has jurisdiction over the area for which they have been compiled, and at military units for active duty military personnel.

**Article 17**

Citizens have the right to verify voter list registrations. Objections regarding omissions, incorrect registrations, or any errors, can be lodged with the mayors who have compiled the lists.

Mayors must resolve objections by official decision within three days of the date the objections are filed.

Decisions may be appealed within 24 hours of their communication. Appeals are resolved by the court in whose area the voting section is located within no more than three days. Court decisions are final and enforceable, and are communicated to interested parties within 24 hours from pronouncement.

**Article 18**

In cases where residences are changed to another locality after the voter lists are posted, mayors will issue voters a certificate for exercising the right to vote, indicating this in the voter lists.

At their new residences, on election day, voters will be registered into a separate voter list by the electoral office of the voting section, on the basis of the certificate stipulated in paragraph 1 and of a document certifying the change of residence.

**Article 19**

Mayors will communicate to each electoral commission in the district the number of voters belonging to the district at least 20 days before election day.

Two days before election day mayors will deliver a copy of voter lists to the electoral offices of voting sections.

**Section 4**

**Electoral Commissions and Electoral Offices**

**Article 20**

The following are formed to organize and conduct elections:

- a) District electoral commissions;

b) Electoral offices of voting sections.

#### Article 21

District electoral commissions consist of seven members for communes, nine members for towns and municipalities, and 15 members for the Bucharest Municipality.

District electoral commissions for communes consist of two magistrates and five representatives of the parties and political organizations that participate in elections in the respective localities.

District electoral commissions of cities and municipalities consist of two magistrates and seven representatives of the parties and political organizations that participate in elections in the respective administrative-territorial units.

The district electoral commission of the Bucharest Municipality consists of four magistrates and 11 representatives of the parties and political organizations that participate in elections in the Bucharest Municipality.

Magistrates are designated by presidents of the county or Bucharest Municipality courts within five days from the establishment of election dates by drawing lots from the names registered in a list of all magistrates in the county or in the Bucharest Municipality.

If the number of magistrates is insufficient, police commissioners will complete the lists with the names of other jurists or persons with unsullied reputation and who do not belong to any party or political organization.

Presidents of county or Bucharest Municipality courts will designate the presidents of district electoral commissions and their alternates.

Within two days after the list of candidacies is finalized, the presidents of district electoral commissions will complete the district electoral commissions with the names of representatives nominated by parties and political organizations. Nominations made beyond that time are not considered.

If several parties or political organizations have nominated the same number of candidates for the lists, their members are designated to commissions by the presidents of the commissions by drawing lots in the presence of representatives of the parties or political organizations involved.

In order to determine the parties and political organizations whose representatives will complete district electoral commissions, local bodies of party and political organizations will officially communicate to presidents of the county or Bucharest Municipality courts, within 24 hours from the time lists and candidates are finalized, the number of finalized filed candidacies for each local council and mayor's office.

If parties and political organizations do not nominate representatives, the presidents will complete district

electoral commissions by drawing lots from lists advanced by mayors, to include the names of persons who do not belong to any parties or political organizations.

#### Article 22

District electoral commissions have the following functions:

- a) Monitor the implementation of legal provisions for elections, in keeping with their jurisdictional authority;
- b) Supervise the timely production and posting of voter lists, and the timely organization of voting sections;
- c) Register lists of candidates and independent candidacies for local councils, as well as candidacies for mayor; document the finalization of candidacies;
- d) Perform the necessary publication and posting of candidate lists and candidacies for mayor;
- e) Within three days from the deadlines for submission of candidate lists and candidacies, transmit to police commissioners the electoral symbols of parties and political organizations so that they may be printed on ballots;
- f) Receive the communication of number of voters registered on voter lists compiled by mayors; distribute ballots, validation stamps, and "voted" stamps, to electoral offices of voting sections;
- g) Resolve objections about their own activities and challenges to the operation of electoral offices of voting sections;
- h) Total election results for electoral districts, releasing to council members and mayors confirmation certificates for the election;
- i) Transmit to local councils reports of results of council member elections, so that the elections may be validated; reports for mayors are sent to courthouses, and those for the general mayor to the Court of the Bucharest Municipality, so that the election may be validated;
- j) Organize a second ballot as needed;
- k) Through police commissioners, communicate election data and results to the Central Electoral Commission and the government, and publish election results in the local press;
- l) Receive used and unchallenged ballots, canceled ballots, stamps, and other voting materials from electoral offices of voting sections, and deliver them to courthouses in whose jurisdiction they operate.

### Article 23

Challenges to the formation of district electoral commissions can be made within five days from their formation and completion with representatives of parties and political organizations, and are resolved by courts within three days from filing.

Decisions are final.

### Article 24

Electoral offices of voting sections consist of a president, an alternate, and seven to nine members.

The presidents and their alternates are usually jurists who do not belong to any parties and political organizations, designated by the presidents of county or Bucharest Municipality courts, by drawing lots from names registered in lists compiled by police commissioners or mayors.

If the number of jurists is insufficient, the lists will be completed with other persons who have an unsullied reputation and who do not belong to any parties and political organizations.

Presidents and their alternates are designated, and electoral offices of voting sections are completed with other members, no more than 15 days before election day.

Electoral offices of voting sections are completed with one representative of the parties and political organizations which participate in elections, in decreasing order of the number of nominated candidates.

Lists of representatives of parties and political organizations whose names are to be drawn for designation as members of electoral offices of voting sections, are submitted to presidents of district electoral commissions at least 20 days before elections.

The provisions of Article 21, paragraphs 9 and 11 are applied as required, with names to be drawn by presidents of electoral offices of voting sections.

### Article 25

Electoral offices of voting sections have the following functions:

- a) Receive voter lists compiled by mayors, as well as ballots, validation stamps, and "voted" stamps from district electoral commissions;
- b) Carry out voting operations, and take all measures to maintain order at and around voting sections sites;
- c) Count votes and document results for the electoral district covering their sections, both for local councils and for mayors;
- d) Resolve objections regarding their own activities;

e) Forward to district electoral commissions reports with voting results, along with filed challenges;

f) Deliver to district electoral commissions, with documentation, used and unchallenged ballots, canceled ballots, stamps, and other voting materials.

### Article 26

Challenges to the formation and composition of electoral offices of voting sections can be made within five days from their formation and are resolved by district electoral commissions within three days from filing. Decisions are final.

### Article 27

District electoral commissions and electoral offices of voting sections can legally operate in the presence of one-half plus one of the number of their members, and adopt decisions with a majority of the members present.

### Article 28

Election candidates, their spouses, relatives and kin up to second degree, as well as persons who are not entitled to vote, cannot be members of district electoral commissions and electoral offices of voting sections.

## Section 5

### Candidacies

### Article 29

The number of council members for local councils is stipulated in the Law for Local Public Administration.

### Article 30

Candidate nominations for local council members and mayors are made for electoral districts and are submitted to district electoral commissions no later than 30 days before elections.

### Article 31

Candidate nominations are made in writing, in three copies, by parties and political organizations participating in elections, with the signature of their local management, or in the case of independent candidates, based on lists of their supporters. Independent candidates must submit a declaration certified by the state notary, testifying that the supporters' signatures are genuine, as well as a declaration accepting the candidacy.

Declarations accepting candidacies will be attached to lists containing candidate nominations.

Lists common to several parties and political organizations will be signed by their local managements.

### Article 32

A person can only accept a nomination for a single electoral district.

**Article 33**

Each party and political organization can submit one candidate list only for local councils in each electoral district, and one single candidate for mayor.

**Article 34**

Independent candidates for council seats will have to be supported by a minimum of 1 percent of the total number of voters registered in lists, divided by the number of council members that can be elected in the respective communes or cities, but no less than 50.

Independent candidates for mayor must be supported by a minimum of 1 percent of the total number of voters registered in lists for the district in which they are running, but no less than 150.

**Article 35**

District electoral commissions determine whether the conditions stipulated by law for the list of positions and candidates are fulfilled, and registers those that meet these conditions.

One copy of nomination lists and candidacies is kept by district electoral commissions; another is registered at the courthouses of the electoral districts, or at the Courthouse of the Bucharest Municipality; the third, certified by the district electoral commission, is returned to the person who submits it.

**Article 36**

Candidacies can be challenged by voters and by parties and political organizations within 10 days from the submission deadline.

Challenges for acceptance or rejection of candidacies are resolved in no more than three days from receipt by courthouses or by the Courthouse of the Bucharest Municipality. Decisions are final and enforceable, and are communicated to interested parties within 24 hours of pronouncement.

**Article 37**

A report signed by the members of district electoral commissions is completed when the deadline for candidacy submission has expired.

Candidacies are made public by district electoral commissions through the press and by posting at voting sections, specifying the first and last name, address, political affiliation, profession, and employment of candidates.

After the deadlines stipulated in Article 36 expire, candidacies are finalized, with district electoral commissions recording this fact in a report.

**Section 6****Ballots****Article 38**

Ballot forms are established by the government, and those for local councils differ from those for mayors.

**Article 39**

Ballots consist of one or more pages. The inside pages of ballots will contain a sufficient number of rectangles to include all candidacy lists and independent candidates, with the last page left blank to receive the validation stamp.

Rectangles will be printed parallel to each other, in two columns per page.

The upper left hand corner of the rectangles will display the name of the party, political organization, or coalition participating in the election, or as the case may be, "independent candidate" or "list of independent candidates."

The upper right hand corner of the rectangles will display the electoral symbols of parties and political organizations, or as the case may be, the electoral symbols of coalition parties.

The rectangles of each ballot will display lists of candidates identified by first and last names, in the order determined by the lots drawn by district electoral commissions. Each independent candidate will have a separate rectangle at the end of the ballot, in the order that his candidacy was registered.

For mayoral elections, ballot rectangles will display the first and last names of candidates in the order determined by the lots drawn by district electoral commissions. The provisions of paragraphs 2, 3, and 4 are applicable.

The size of the ballot is established by district electoral commissions, taking into consideration the number of rectangles as well as the space necessary to print the candidates' names and the other information stipulated in paragraphs 5 and 6.

The ballot paper will be white and sufficiently thick so that imprinted names and votes will not be visible from the reverse side.

**Article 40**

Electoral symbols are established by each party and political organization at least 10 days from the establishment of election dates. Party coalitions can also devise electoral symbols.

Parties and political organizations that have participated in previous elections retain their electoral symbols if they do not request modifications or changes.

Electoral symbols cannot be contrary to law or standards of decency.

Parties and political organizations will use the same electoral symbols in all electoral districts.

Parties and political organizations, as well as party coalitions communicate their electoral symbols to district electoral commissions within the deadline stipulated in paragraph 1.

When the same electoral symbol is requested by several parties and political organizations, or by several party coalitions, the symbol will be assigned by lots drawn by the Central Electoral Commission within five days. The assignment requires that the other parties and political organizations or other party coalitions change their electoral symbol, and that they communicate it within five days to district electoral commissions.

District electoral commissions communicate electoral symbols to police commissioners within three days, so that they will be printed on ballots.

#### Article 41

Ballot printing is assured by district electoral commissions through the services of police commissioners.

Ballots will be printed with letters of the same size, the same font, and the same ink for an entire electoral district, in quantities equal to the number of registered voters, with a surplus of 10 percent.

Ballots will be printed no later than 10 days before elections.

#### Article 42

Presidents of district electoral commissions, together with two other members of the commissions, will receive ballots from mayors on the basis of written documentation. They are delivered to electoral offices of voting sections at least two days before elections. Receipt and delivery are based on written documentation.

#### Article 43

Local council sites and voter list posting centers, as well as voting sections, will display within five days one ballot of each category, after the ballot has been stamped and voided by the presidents of district electoral commissions.

#### Article 44

At the request of parties and political organizations or of independent candidates who participate in the elections, district electoral commissions will issue two stamped and voided ballots to each.

### Section 7

#### Electoral Campaigns

##### Article 45

Electoral campaigns begin on the day on which election dates are made public and end two days before elections.

##### Article 46

In electoral campaigns, candidates, political organizations, and all social and citizen organizations have the right to express their opinions freely and without any discrimination, through meetings, gatherings, television, radio, the press, and other means of mass information.

The means used in electoral campaigns cannot violate the law.

##### Article 47

Within five days from the start of electoral campaigns, mayors must order the designation of special sites for electoral posting, taking into consideration the number of parties and political organizations that declare they will submit candidate lists, candidacies for mayor, as well as independent candidates. These sites will be located in areas frequented by citizens, without interfering with public traffic and other activities in their localities.

It is forbidden to use special electoral posting sites so as to prevent their use by a party, political organization, or independent candidate.

##### Article 48

It is forbidden to finance electoral campaigns with funds received from abroad or that have not been publicly declared.

### CHAPTER III

#### Election Procedures

##### Article 49

Each voting section must have a sufficient number of voting booths, ballot boxes, and voting stamps, which are provided by mayors.

Booths and boxes must be located in the same space as the offices of presidents.

Presidents of electoral offices of voting sections must be present at voting section sites on the eve of elections at 1800 hours, and must immediately take the measures necessary to assure the proper order and correctness of voting procedures.

Presidents will assign guard positions around voting sites.

**Article 50**

On election day, at 0500 hours, presidents of electoral offices of voting sections, in the presence of the other members, will check ballot boxes, the availability of voter lists, ballots, and stamps, after which they will close and seal the boxes, applying the validation stamps of voting sections.

Presidents must assure that validation stamps are applied on ballots.

**Article 51**

Presidents of electoral offices of voting sections must take the measures necessary for elections to proceed under good conditions.

In this regard, the powers of presidents also extend beyond voting sections to a distance of 500 meters.

Foreign and national observers, accredited for the purpose, can participate in the conduct of voting procedures.

Representatives of nongovernmental organizations whose sole purpose is the protection of the rights of man, and who are legally established, can be accredited as national observers.

The persons designated by these organizations cannot be members of a party or political organization.

Challenges to the accreditation of national observers can be filed with the Central Electoral Commission.

Except for members of electoral offices of voting sections, persons accredited according to law, as well as representatives of the Romanian and foreign media, no other person can remain in public locations of the voting area, or at the voting site longer than the time necessary for voting.

So as to maintain order, presidents of electoral offices of voting sections will have the use of necessary public order resources through the services of police commissioners.

**Article 52**

Voting takes place in one single day. It starts at 0600 hours and ends at 2100 hours. If it is determined that there remain voters who have not voted, presidents of electoral offices of voting sections, with the approval of district electoral commissions, can extend the voting hours until 2400 hours at the latest, when voting is declared to be closed.

**Article 53**

Voters will vote only at the voting sections at which they were registered in voter lists.

Voter access to voting areas is allowed in units that correspond to the number of booths. Each voter presents

an identification card to the electoral offices of voting sections, which verify registration in voter lists and provide a ballot and voting stamp.

Voters will vote separately in closed booths, applying the "voted" stamp in the rectangle that includes the list of candidates or the name of the candidate for whom they are voting.

The "voted" stamp must be round and its dimensions must be smaller than the rectangle in which it is applied.

After voting, voters will fold the ballots so that the blank page that bears the validation stamp will be on the outside, and will place them into ballot boxes being careful not to unfold them.

Misfolding the ballot does not result in cancellation of the vote if the secrecy of the vote is respected.

In case the ballot opens by mistake, it is canceled and the voter will receive, only once, a new ballot, this fact being recorded in the report of voting operations.

The stamp used for voting is returned to the president.

Presidents can take measures so that voters will not remain in booths for unjustified lengths of time.

After voting, the identification card of each voter is imprinted with a "voted" stamp and with the date.

**Article 54**

Presidents, members of electoral offices of voting sections, as well as personnel responsible for maintaining order, will vote at the voting sections at which they fulfill their functions if they reside in the localities covered by the voting sections.

Active duty military personnel will vote for local councils and mayors in the localities of their military unit.

**Article 55**

Candidates and any other voters have the right to challenge the identity of persons arriving to vote. In these cases, presidents will establish identification by any possible means. If the challenges are well founded, presidents will prevent the challenged voters from voting, will record this fact, and will report the situation to police authorities.

**Article 56**

Presidents of electoral offices of voting sections can suspend voting for well-founded reasons.

Suspensions cannot exceed one hour and will be announced by a posting on the door of the voting site at least one hour ahead of time. The duration of all suspensions cannot exceed two hours.

During suspensions, ballot boxes, stamps, ballots, and all papers of electoral offices will remain under constant

guard, and the members of offices will not be able to leave voting areas at the same time.

Those who on the basis of Article 51, paragraph 7 can witness the voting process, cannot be compelled to leave the voting area at that time.

#### Article 57

The presence in voting booths of any person other than the one who is voting is forbidden.

Voters who for sound reasons, verified by presidents of electoral offices of voting sections, cannot vote by themselves, have the right to select a companion to help them in the voting booth.

#### Article 58

At the request of voters who cannot be transported for reasons of illness or disability, or at the request of the management of health or social welfare institutions that care for them, presidents of electoral offices of voting sections designate members of the office to travel to the location of the voters with a special ballot box and necessary voting materials in order to allow them to vote.

In the cases stipulated in paragraph 1, voting will be based on name lists derived from voter lists, signed by presidents of electoral offices of voting sections.

#### Article 59

At 2100 hours or under the conditions stipulated in Article 52, at 2400 hours, the presidents of electoral offices of voting sections declare the voting to be closed.

### CHAPTER IV

#### Determination and Documentation of Election Results

##### Section 1

###### Determination of Voting Results

#### Article 60

After the closing of the vote, the presidents of electoral offices of voting sections proceed to cancel unused ballots and to open ballot boxes in the presence of office members, and as the case may be, of persons who have the right to witness the voting.

At the opening of each ballot, presidents will read aloud the list of candidates, or the first and last name of independent candidates, or of the mayoral candidates for whom votes have been cast, and will show the ballot to those who are present.

Ballots that do not bear the validation stamp of voting sections, ballots of other types than legally approved ones, ballots that do not bear the "voted" stamp, or ballots on which the stamp is applied to several rectangles or outside the rectangles are void; these ballots are not counted as votes that have been cast.

Results will be entered into two separate tables, one for local councils and one for mayors; one copy will be kept by a member of the electoral office and another by the candidates who are present.

These tables will record the total number of voters, the number of canceled votes, lists of candidates, and as needed, the first and last name of independent candidates and of mayoral candidates, as well as the number of votes gathered by each.

#### Article 61

After opening the ballot boxes and counting the votes, the presidents of electoral offices of voting sections write one report each, in two copies, for the council being elected and for the mayor.

The reports will include:

- a) The number of voters according to registered voter lists;
- b) The number of voters who have reported to vote;
- c) The total number of valid votes cast;
- d) The number of canceled votes;
- e) The number of votes obtained by each candidate list or independent candidate;
- f) The number of votes obtained by each of the candidates for mayor;
- g) A brief explanation of objections and challenges, of their resolution, and of challenges forwarded to district electoral commissions.

The reports will be signed by presidents and members of electoral offices of voting sections, and will bear their stamp.

The absence of signatures of office members does not affect the validity of the reports. The presidents will indicate the reasons that have prevented the signing.

#### Article 62

Objections and challenges regarding voting and ballot box opening can be made during these operations.

Challenges are formulated in writing and presented to presidents of electoral offices of voting sections, who will issue receipts.

Presidents of electoral offices of voting sections will immediately resolve challenges whose solution cannot bear delay.

#### Article 63

A file will be opened for each local council and each mayor, to include reports and challenges regarding the section's electoral operations, as well as cancelled and challenged ballots. The sealed and stamped files will be

forwarded under military guard to district electoral commissions by the presidents and members of electoral offices of voting sections, within no more than 24 hours from the closing of the vote.

## Section 2

### Documentation of Voting Results

#### Article 64

After receiving reports of the results of vote counting from all electoral offices of voting sections, and after resolving filed objections and challenges, district electoral commissions proceed to total the cast votes and to apportion mandates under the conditions of the present law.

To this end, district electoral commissions separately record the number of votes obtained for the entire district by each candidate list or independent candidate.

Similarly, the number of votes obtained will be added up for each candidate for mayor.

The work of district electoral commissions can be witnessed by persons who have the right to be present at voting sites during elections.

#### Article 65

If less than one-half plus one of all the voters registered in the voter lists of an electoral district have voted, district electoral commissions indicate this in their reports, so that new elections can be organized.

The new elections legally take place two weeks from the date of the preceding elections, under the same conditions, using the same lists of candidates and candidacies, as well as the same voter lists.

The elections are considered valid independently of the number of voters participating in the vote.

#### Article 66

Council member mandates are apportioned as follows:

- In the first stage, the number of mandates due to each candidate list and to independent candidates is established by district electoral commissions as a function of electoral coefficients, determined by dividing the total number of votes validly cast for all lists and independent candidates, by the total number of council members in the respective districts; district electoral commissions will apportion to each list as many mandates as the number of times the electoral coefficient goes into the total number of votes cast for the respective lists; mandates for each list are apportioned in the order in which candidates are entered in the list, and start with the candidate list that received the highest number of votes; similarly, independent candidates who have received a number of votes at least equal to the electoral coefficient, are declared to be elected.

Votes left over after mandates have been apportioned, as well as those whose number is lower than the electoral coefficient, are considered as unused for each list of party and political organization candidates or of independent candidates;

- In the second stage, district electoral commissions will record the number of unused votes for each party, political organization, party coalition, or independent candidate; unapportioned mandates will be distributed to parties and political organizations, party coalitions, or independent candidates in decreasing order of the number of unused votes, one each for each party, political organization, party coalition, or independent candidate, until they are all used up.

Candidates registered on lists, who have not been elected after these steps have been taken, are declared alternates for the respective lists.

#### Article 67

Voting results for mayors are collected by district electoral commissions. Candidates who have gathered at least one-half plus one of the votes from voters participating in the election are declared mayors.

When none of the candidates has received such a majority, another round of voting is organized between the candidates in the first two positions, within no more than two weeks.

The candidate obtaining the largest number of votes is declared elected.

#### Article 68

When at least two candidates for mayor have the same number of votes, a second ballot is required and new elections are rightfully organized within two weeks. Only those candidates eligible for a second ballot participate in this election.

#### Article 69

District electoral commissions complete a report regarding all electoral operations, vote collection, and documentation of election results for the local councils involved in the elections, and for mayors.

The reports will include:

- The number of voters in the electoral district according to voter lists;
- The total number of votes cast;
- The total number of votes obtained by each candidate list or by each independent candidate;
- The number of votes obtained by each candidate for mayor;
- The number of canceled votes;

- f) The first and last name of the candidates elected to each local council and their parties and political organizations, or their identification as independent candidates;
- g) The first and last name of elected mayors and their parties and political organizations, or their identification as independent candidates;
- h) A brief explanation of objections, challenges, and final decisions taken by district electoral commissions.

Reports are signed by presidents and other members of district electoral commissions, and bear their stamps.

Local council reports together with the objections, challenges, and reports received from electoral offices of voting sections, form a closed file, signed and sealed by members of district electoral commissions, and are forwarded to local councils for election validation.

Files compiled in accordance with paragraph 2 for mayors are forwarded under military guard, and within no more than 48 hours, to the courthouses with jurisdiction over the localities to which the mayors have been elected.

District electoral commissions issue certifications confirming the election of local council members and mayors.

One copy each of the reports is sent within 24 hours to county or Bucharest Municipality courts, which forward them to the Central Electoral Commission.

## CHAPTER V

### Election of County Councils

#### Article 70

Each county constitutes an electoral district for the election of county councils.

#### Article 71

County council members are elected by indirect vote by an electoral body within 30 days from the formation of local councils in counties.

The electoral body is composed of all the members of legally formed local councils in the respective counties.

#### Article 72

Within three days from the formation of all local councils in a county, a county district electoral commission is formed to organize and conduct elections.

The commission stipulated in paragraph 1 consists of the president of the county court as commission president, three judges, and 11 representatives of the parties and political organizations that participate in the election, designated under the conditions of Article 21, paragraph 8 of the present law.

#### Article 73

County district electoral commissions have the following functions:

- a) Establish the date and site of elections; compile voter lists and convene electoral bodies in elections;
- b) Receive, verify the legality of, and record candidate lists submitted by parties and political organizations by party coalitions and by independent candidates;
- c) Make public the recorded candidacies, resolve possible challenges, and note their final status;
- d) Establish the order in which candidate lists are entered on ballots;
- e) Take steps to print ballots;
- f) Assure the conditions necessary to exercise voting rights;
- g) Distribute ballots to voters;
- h) Assure that order is maintained at voting sites and supervise voting procedures;
- i) Proceed to count votes and establish voting results;
- j) Bring voting results to the attention of electoral bodies and citizens.

County electoral commissions can validly operate in the presence of one-half plus one of the total number of members, and make decisions with a majority of the members present.

#### Article 74

The number of council members for county councils is stipulated in the Law for Local Public Administration.

#### Article 75

Every party, political organization, or party coalition that has obtained positions on local councils in the county, can submit a list of candidates for county councils. Independent council members can also be candidates.

Candidate lists are submitted to county district electoral commissions within 10 days from the formation of the last local council in the county.

The provisions of Articles 32, 33, and 35 apply accordingly.

Candidacies can be challenged by parties and political organizations, by party coalitions which have presented candidate lists, by independent candidates, as well as by voters, within five days after the submission deadline.

Challenges regarding the acceptance or rejection of candidates are resolved within three days by county courts.

Decisions are final and enforceable and are communicated to interested parties within 24 hours from pronouncement.

#### Article 76

After the deadlines stipulated in Article 75, candidacies are finalized and district electoral commissions record them in a report.

#### Article 77

Ballot forms are established by the government, and ballots are printed in accordance with the provisions of Articles 39 and 40, and of Article 41, paragraph 2 of the present law.

Candidate lists are entered on ballots in decreasing order of percentages obtained for each party or political organization in local elections throughout the county, as a ratio between number of votes cast for its candidates and the total number of valid votes that have been cast.

Independent candidates are entered in the final portion of ballots, in the order of candidacy registration.

#### Article 78

Ballots are printed at least five days before elections and are collected with documentation from police commissioners by presidents of district electoral commissions.

#### Article 79

A ballot that has been stamped and voided by presidents of county district electoral commissions is posted at local councils and at voting sites.

#### Article 80

The right to vote is exercised by voters at the county seat on the days and at locations established by county district electoral commissions.

Buildings in which the voting is to take place are prepared through the services of police commissioners so as to assure direct and secret vote.

Voting takes place in one single day; it starts at 0800 hours and ends at 2000 hours.

The provisions of Article 51 of the present law apply accordingly.

#### Article 81

Voters receive one ballot each from presidents of district electoral commissions at voting sites, after being identified in voter lists on the basis of identification cards.

Voters cast their vote by stamping "voted" in the rectangle corresponding to the party, political organization, party coalition, or independent candidate of their choice.

After this operation, voters will fold their ballots so that the blank page that bears the validation stamp is on the outside, and then place them into ballot boxes.

Misfolding the ballot does not result in cancellation of the vote if the secrecy of the vote is respected.

#### Article 82

Candidates and any other voters have the right to challenge the identity of persons arriving to vote. In these cases, presidents will establish identification by any possible means. If the challenges are well founded, presidents will prevent the challenged voters from voting and will report the situation to police authorities.

#### Article 83

After voting has ended, the presidents of district electoral offices declare the election closed, and proceed to cancel unused ballots and to open ballot boxes in the presence of members of commissions, and as the case may be, of persons who have the right to witness the voting.

Afterwards, the presidents of district electoral commissions proceed to determine and document voting results; the provisions of Article 60, paragraphs 2, 3, 4, and 5 apply accordingly.

#### Article 84

Elections are considered valid if at least two-thirds of the total number of voters have voted.

If the majority stipulated in the previous paragraph has not been met, district electoral commissions note this situation in a report and organize another election within 10 days under the same conditions. On second ballots, elections are considered valid if one-half plus one of the total number of voters participate.

#### Article 85

If elections are considered valid, district electoral commissions proceed to apportion mandates in accordance with the provisions of Article 66, which applies accordingly.

#### Article 86

District electoral commissions write a report in three copies regarding voting operations, determination of voting results, and allocation of mandates, to include:

- a) The number of voters in accordance with voter lists;
- b) The number of voters reporting to vote;
- c) The total number of votes cast;
- d) The number of canceled votes;
- e) The number of votes obtained by each candidate list and each independent candidate;

- f) The first and last name of candidates declared to be elected, as well as the party or political organization that has submitted their names;
- g) The first and last name of independent candidates declared to be elected;
- h) A short explanation of possible challenges and final decisions taken by district electoral commissions.

Reports are signed by presidents and other members of the commissions and will bear their stamps.

Copies of the reports, certified by presidents and bearing the stamp of district electoral commissions, will be handed on demand to each member of the commissions.

One copy of the reports is forwarded to county councils to validate the mandates of elected council members.

#### Article 87

The original copies of the reports, together with one copy, challenges to voting operations and documentation of voting results, as well as decisions issued and other documents, form files that are sealed and signed by commission presidents and are forwarded to county courts. Returned with the files are used and unused ballots, validation stamps, as well as the other stamps necessary for voting.

County courts will forward a copy of the reports to the Central Electoral Commission in accordance with the last paragraph of Article 69.

#### Article 88

District electoral commissions issue certificates validating the election of council members.

### CHAPTER VI

#### Infractions and Offenses

##### Article 89

The following acts constitute infractions to the extent to which they are not offenses as defined by law:

- a) Deliberate registration of one person in more than one voter list, voter list registration of fictitious persons or persons who are not entitled to vote, as well as violations of provisions regarding the posting of voter lists; refusal to receive, register, and resolve objections about omissions and improper registrations in voter lists;
- b) Failure on the part of organizers to take the measures necessary for normal conduct of electoral meetings, as well as distribution and consumption of alcoholic beverages during these meetings;
- c) Destruction, deterioration, soiling, defacement in writing or in any other way of voter lists, of posted platform-programs, or of any other posters or printed electoral publicity or announcements;

- d) Posting of electoral publicity in other locations than those allowed by the provisions of the present law;
- e) Acceptance by a person to be registered in more than one candidate list;
- f) Failure on the part of district electoral commission members to bring candidate nominations to the attention of the public;
- g) Refusal to allow access to voting sites to persons stipulated in Article 51, paragraph 7;
- h) Refusal to abide by instructions of presidents of electoral offices of voting sections regarding order at voting sites and surroundings, in accordance with the provisions of Article 51, paragraph 2;
- i) Unjustified refusal to give ballots and voting stamps to voters registered in lists, and who present identification cards, as well as to give ballots to voters who do not present these cards;
- j) Documentation from electoral offices of voting sections that violates the provisions of Article 61;
- k) Departure of members of electoral offices of voting sections from voting sites before establishing voting results and signing reports;
- l) Continued electoral publicity after the electoral campaign is closed in accordance to the provisions of Article 45, as well as advising voters on election day at voting sites or in locations stipulated in Article 51, paragraph 2, to vote or not vote for certain parties and political organizations, party coalitions, or candidates.

##### Article 90

The infractions stipulated in Article 89, subparagraphs c), d), and g) are penalized by fines of 2,000 to 5,000 lei; those stipulated in subparagraphs e), f), j), k), and l) by fines of 5,000 to 15,000 lei; and those stipulated in subparagraphs a), b), h), and i) with imprisonment of one to six months, or with fines of 15,000 to 30,000 lei.

##### Article 91

The infractions stipulated in Article 89 are documented with reports prepared by:

- a) Police officers and noncommissioned officers for the acts stipulated in subparagraphs a), b), c), d), f), g), h), i), and l);
- b) Mayors and their deputies for the acts stipulated in subparagraphs d) and f);
- c) Presidents of district electoral commissions for the acts stipulated in subparagraphs e), j), and k).

For the infractions stipulated in subparagraphs c), d), e), f), g), j), k), and l), the persons documenting the act will also impose the fines.

The infractions stipulated in Article 89 are also subject to the provisions of Law No. 32/1968 on Establishment and Penalization of Infractions.

Reports of the infractions stipulated in subparagraphs a), b), h), and i), will be forwarded to courts with jurisdiction over the area in which the infractions were committed, which will impose sentences.

#### Article 92

Prevention by any means, of the free exercise of the right to vote or be elected, is penalized with imprisonment of six months to five years and with the denial of certain rights.

If the acts stipulated in paragraph 1 cause bodily harm or health injuries whose recovery requires care for more than 60 days, or which result in one of the following: loss or dysfunction of a sense or organ, permanent physical or psychological disability, disfigurement, miscarriage, or life endangerment, the penalties are imprisonment of three to 10 years.

Attempts are penalized.

#### Article 93

Violations of vote secrecy by any means, on the part of members of electoral offices of voting sections or on the part of any other persons, are penalized by imprisonment of six months to three years.

Attempts are penalized.

#### Article 94

Promises, offers, or gifts of money or any other goods in order to encourage voters to vote or not vote for a certain candidate, or receipt of the above by voters for the same purpose, or exercises of the vote that violate the provisions of Article 8, paragraph 2, are penalized with imprisonment of six months to five years.

#### Article 95

Printing and using false ballots, placing into ballot boxes ballots in addition to the ones filled in by voters, or falsification of electoral commission or office documents by any means, are penalized with imprisonment of two to seven years.

Attempts are penalized.

#### Article 96

Attack of voting sites by any means, or theft of ballot boxes or electoral documents, are penalized by imprisonment of two to seven years unless the act constitutes a more serious offense.

Attempts are penalized.

#### Article 97

Opening of ballot boxes before the hour established for the closing the vote, are penalized with imprisonment of one to five years.

Attempts are penalized.

#### Article 98

The penalty limits for offenses stipulated in the Penal Code or in special penal laws, with the exception of those stipulated by Articles 92-97, committed in connection with election procedures in accordance with Chapter III of the present law, are increased by one-half of the special maximum.

#### Article 99

Penal actions are automatically initiated for all offenses committed in connection with the election of council members and mayors.

### CHAPTER VII

#### Final Provisions

#### Article 100

In order to assure that the provisions of the present law are respected and implemented, a Central Electoral Commission is formed, composed of seven judges of the Supreme Justice Court, designated by the court president via name drawing.

The Central Electoral Commission is formed within five days from the establishment of election dates.

The Commission receives and resolves objections to the organization and conduct of local elections other than those which the present law places under the jurisdiction of district electoral commissions and courthouses. Similarly, it resolves objections about electoral fraud and those regarding violations of Article 48 of the present law.

The Central Electoral Commission accredits foreign and national observers, delegates of the Romanian and foreign media, collects local election data, and publicizes it through the press and in MONITORUL OFICIAL AL ROMANIEI.

In exercising its functions, the Central Electoral Commission issues decisions with a majority vote of its members.

In cases of electoral fraud determinations, the Central Electoral Commission orders the cancellation of election results and the organization of new elections within no more than two weeks.

When the Central Electoral Commission finds that the provisions of Article 48 have been violated, it orders the cancellation of the votes and mandates apportioned to

the parties and political organizations, or to the independent candidates involved, and the restoration of election results under the conditions of Article 66 of the present law.

#### Article 101

Costs for the organization and conduct of elections are supported from local budgets. The expenses of the Central Electoral Commission are supported by the government.

#### Article 102

Documents filed in the exercise of voting rights, as stipulated in the present law, are exempt of stamp tax.

#### Article 103

Local and county councils will support the activities of electoral commissions and offices with the necessary auxiliary technical personnel during the time they are in operation.

During the same period, members of electoral commissions and offices, statisticians, auxiliary technical personnel, and contracted workers, are considered on detached duty.

#### Article 104

Court judgements of objections, challenges, and any other requests stipulated by the present law, follow the rules established by law for presidential orders, with compulsory participation of district attorneys.

#### Article 105

In the sense of the present law, legally formed organizations of national minorities are considered similar to parties and political organizations.

#### Article 106

Within three days from the establishment of election dates, the government will define ballot forms. Similarly, at least 20 days before election day it will define certification and voting stamps, reports of voting results, and certificates for validating the election of council members and mayors.

#### Article 107

Until the administrative-territorial organization of the country and of the capital and its subdivisions is established by law, the provisions of the present law referring to the election of local councils and mayors equally apply to the Bucharest Municipality and its sectors, each of which constitutes an electoral district.

The provisions of Chapter V of the present law also apply to the election of the Ilfov Agricultural Sector Council.

#### Article 108

In elections that take place before the formation of local and county councils, the functions and tasks stipulated in the present law for local councils and mayors are exercised by mayors, and those stipulated for county councils, by police commissioners. In the Bucharest Municipality, the tasks stipulated in the present law for police commissioners are exercised by the mayor's office.

This law was adopted by the Senate at its session of 22 November 1991.

President of the Senate  
Academy Member Alexandru Birladeanu

This law was adopted by the Chamber of Deputies at its session of 22 November 1991.

President of the Chamber of Deputies  
Martian Dan

On the basis of Article 82, subparagraph m) of Decree-Law No. 92/1990 for the Election of Parliament and of the President of Romania, we proclaim the Law on Local Elections and order its publication in MONITORUL OFICIAL AL ROMANIEI.

President of Romania  
Ion Iliescu  
Bucharest, 26 November 1991  
No. 70

#### Law on Accounting System

92BA0395A Bucharest MONITORUL OFICIAL  
in Romanian 27 Dec 91 pp 1-4

[“Text” of Law on Accounting System, issued in Bucharest on 24 December 1991]

[Text] The Romanian Parliament passes the present law.

### CHAPTER I

#### General Provisions

##### Article 1

The autonomous managements, commercial associations, public institutions, cooperative units, associations, and other legal persons, as well as physical persons who carry business status, are obligated to organize and keep their own accounting books in compliance with the present law.

##### Article 2

Bookkeeping, as the main tool used to keep record of, manage, and monitor assets and results, must ensure:

- a) Chronological and systematic entries, processing, recording, and maintenance of data concerning the situation of the capital and the results obtained, both for the purposes of the persons cited in Article

1, and for their relations with partners or shareholders, customers, suppliers, banks, internal revenue offices, and other legal or physical persons;

b) Monitoring of capital operations, of the processing procedures used, and of the correctness of the accounting data furnished;

c) Supply the necessary data for establishing the national patrimony, the performance of the national public budget, and the financial and general balance sheets of the national economy.

### Article 3

(1) Books will be kept in the Romanian language and in the national currency.

(2) Accounts of operations conducted in foreign currency will be kept both in the national and in foreign currency.

### Article 4

The Ministry of Economy and Finance will issue a general accounts plan, samples of accounting books and balance sheets, general forms for financial and accounting activities, and methodological norms for keeping and utilizing them. In the case of banking firms, the forms will be issued by the Romanian National Bank and endorsed by the Ministry of Economy and Finance.

### Article 5

(1) The persons cited in Article 1 are obligated to keep double-entry account books and to draw up a balance sheet or, in the case of public institutions, an accounting report, which in the present law will be referred to as the balance sheet.

(2) The Ministry of Economy and Finance will decide the categories of persons that may keep single-entry accounts and those who are expected to have a balance sheet.

### Article 6

(1) Accounting entries will be made chronologically and regularly in compliance with the accounting schedules and norms stipulated in Article 4.

(2) Any capital operation will be recorded at the time it is carried out in a document that will serve as the basis for accounting entries and will thus constitute the relevant document.

(3) The responsibility for warrant documents serving as basis for accounting entries will be borne by the persons who drafted, endorsed, and approved them or who entered them in the books, as the case may be.

### Article 7

(1) Chattels and real assets will be entered in the books at acquisition, production, or market price, according to case.

(2) Outstanding debts and debts owed will be entered at their nominal value.

### Article 8

(1) The persons cited in Article 1 are obligated to take a general inventory of their assets: At the start of business; at least once a year during its life; in the case of merger or closing, and in the other cases stipulated by law.

(2) Exemptions from the rule of compulsory annual inventory require the approval of the Ministry of Economy and Finance.

### Article 9

Assessment of property assets on the basis of inventory and their recording in the balance sheet will be done according to the norms established by the Ministry of Economy and Finance.

### Article 10

The official management document of the persons cited under Article 1 is the balance sheet, which must present an accurate, clear, and complete picture of the capital property, the financial situation, and the results obtained.

## CHAPTER II

### Bookkeeping Organization

### Article 11

(1) As a rule, the persons cited in Article 1 will organize and keep the books in distinct departments headed by financial-accounts directors, a chief accountant, or another person empowered to fulfill this duty. Such persons must have a higher education in economics.

(2) The accounts of the persons cited in Article 1 can also be organized and kept by authorized legal or physical persons who bear the title of certified or chartered accountant. Their responsibilities are determined by law.

(3) In accordance with the present law, the responsibility for organizing and keeping the books rests with the manager, credit manager, or any other person in charge of managing the assets.

(4) The physical persons cited in paragraph 1 are responsible, in conjunction with the personnel under them, for keeping the books in compliance with the law.

(5) In cases in which the books are not kept by authorized persons, the responsibility falls on the owner.

### Article 12

(1) The object of bookkeeping is to reflect the chattels and real assets, including land, natural resources, deposits, and other assets with an economic potential, cash holdings, stock, and the rights and obligations of the

persons cited under Article 1 in terms of money, as well as the shifts and changes resulting from the transactions carried out, outlays, revenues, and the results obtained.

(2) Holding material assets and cash in any form and for any purpose and any property rights or obligations, and carrying out property transactions without entering them in the accounts is forbidden.

#### Article 13

(1) The books regarding fixed assets will be kept according to categories and for each recording subject.

(2) The accounting of material assets will be done in terms of quantity and value, or only value.

#### Article 14

The value of the shares issued or of other stock, and the payments made toward the subscription capital will be clearly shown in the books.

#### Article 15

Accounts regarding customers and suppliers and outstanding or owed debts will be kept according to categories and for each physical or legal person separately.

#### Article 16

Expenditure accounts will be kept according to kind and category of outlay.

#### Article 17

The accounting of expenditures financed from the budget and other resources will show both cash payments and effective outlays according to budget classifications.

#### Article 18

Revenue accounts will be kept according to kind and nature of revenues.

#### Article 19

(1) For bookkeeping purposes, profits or losses will be calculated on a monthly basis.

(2) Profit distributions will be recorded in the books according to appropriation, in accordance with the law.

### CHAPTER III

#### Account Books

#### Article 20

(1) The main accounts books used are: the record-ledger, the inventory book, and the ledger.

(2) The Ministry of Economy and Finance may exempt some of the persons cited in Article 1 from keeping some of the books.

#### Article 21

The account books will be utilized strictly in keeping with their purpose and will be presented in an orderly and complete manner, so as to allow transactions to be identified and monitored at any time.

#### Article 22

An inspection statement will be drafted every month in order to verify the correct entry of transactions in the books.

#### Article 23

(1) The physical and legal persons who use automatic data processing systems are obligated to observe the bookkeeping regulations, the storing, safe keeping in the form of technical supports, and the verification of the data entered in the books.

(2) The computer services are responsible for accurately processing the information contained in documents, and the customers are responsible for the correctness and genuineness of the data they send for processing.

#### Article 24

Operations involved in the merger or termination of the persons cited in Article 1 will be entered in the books on the basis of the appropriate documents drawn up in such situations.

#### Article 25

The account books and the warrant documents serving as evidence for bookkeeping entries will be kept in the archives of the persons cited in Article 1 for a period of 10 years, beginning with the budget year in which they were drawn up, with the exception of payrolls, which will be kept for 50 years.

#### Article 26

In case of loss, theft, or destruction of accounting documents, measures will be taken to reconstruct them within at most 30 days of notification.

### CHAPTER IV

#### Balance Sheet

#### Article 27

(1) The balance sheet will be drawn up annually and in the case of merger or legal termination of the activities of the persons cited in Article 1, as the case may be.

(2) Autonomous managements and businesses in which the state holds at least 20 percent of the starting capital, as well as other legal persons, may be instructed by the Ministry of Economy and Finance to draw up and present balance sheets at intervals other than annually.

(3) The balance sheet will be made up of: statement, profit and losses account or performance account in the case of public institutions, annexes, and management report.

(4) The fiscal year begins on 1 January and ends on 31 December, with the exception of the first year of activity, when it begins on the date of establishment and/or registration of the persons cited in Article 1, in keeping with the law.

#### Article 28

The following rules will be observed upon drawing up the balance sheet:

- a) The items entered in the balance sheet must correspond to the data entered in the books and must reflect the real situation of the property elements established on the basis of inventory;
- b) Offsetting operations are not allowed between the accounts featured in the balance sheet and/or between the incomes and expenditures featured in the profits and losses account.

#### Article 29

The balance sheets will be checked and certified correct by auditors, certified or chartered accountants, as the case may be, in the conditions established by the Ministry of Economy and Finance.

#### Article 30

(1) After being approved, the balance sheet will be published in accordance with legal provisions.

(2) Annual balance sheets will be kept for a period of 50 years.

(3) If the persons cited in Article 1 have ceased their activities, the balance sheets, ledgers, and documents mentioned in Article 25 will be handed to the state archives in accordance with the Law on Romania's National Archives Fund, unless otherwise stipulated by law.

#### Article 31

(1) One copy of the annual balance sheet will be filed with the general county directorate of public finance or that of Bucharest Municipality by the persons cited in Article 1 by at the latest 15 April of the following year.

(2) Public institutions and other legal persons whose managers also serve as credit managers will deposit one copy of the quarterly and annual balance sheet with the hierarchically superior body in keeping with the deadlines established by them.

(3) The ministries, departments, and other bodies of the central public administration, the prefectures, local councils, county councils, and the Bucharest Municipal Council, whose leaders serve as credit managers, will

deposit at the Ministry of Economy and Finance one copy of the quarterly and annual balance sheet, in keeping with the latter's norms and deadlines.

#### Article 32

In order to verify the calculation and settlement of the revenues legally owed to the state and local budgets, as the case may be, the persons cited in Article 1 will file a monthly statement on their "Financial Results and Fiscal Obligations" with the general directorates of county public finance and of the Bucharest Municipality, in accordance with the model and schedule established by the Ministry of Economy and Finance.

### CHAPTER V

#### Accounts of the Public Finance Treasury and Public Institutions, and the Balance Sheet of the Overall National Economy

#### Article 33

(1) The accounting for the public finance treasury will be organized by the Ministry of Economy and Finance and its units and will feature: transactions regarding the cash implementation of the state budget, local budgets, and state social security budget; the formation and utilization of funds outside the budget and funds earmarked for special purposes; the management of the domestic and foreign debt, and other financial operations carried out by the bodies of central public administration.

(2) The account books of the public finance treasury will be organized and kept in keeping with the norms issued by the Ministry of Economy and Finance.

(3) The ministries, departments, and other central bodies of public administration whose leaders also serve as main credit managers, and the public institutions with the status of legal persons controlled by them, will organize and keep books on incomes received and expenditures incurred in line with the approved budget, and on resources outside the budget and special funds.

#### Article 34

(1) Local budget accounts will be organized and kept at the level of the counties and Bucharest Municipality; cities and districts of Bucharest Municipality; towns and communes, in keeping with the norms established by the Ministry of Economy and Finance, which will ensure the recording of transactions regarding:

- a) Incomes received and payments made under the local budgets and legally formed special funds;
- b) Records of transfers from the state budget and records of the legally formed treasury fund.

(2) Local state institutions with the status of legal person, whose leaders serve as credit managers, will organize and keep accounts of their incomes and expenditures in keeping with the approved budget.

#### Article 35

The accounts of the state social security budget and of the other autonomous social security bodies, and the accounts of the units controlled by them will be organized and kept by each social security unit separately.

#### Article 36

(1) The Ministry of Economy and Finance will draw up an annual balance sheet for the entire national economy.

(2) The main object of the balance sheet of the entire national economy is the national patrimony, which includes the public and private sectors, including the land, natural resources, mineral deposits, and other assets with an economic potential, estimated in terms of cash.

(3) Records of the natural or natural-conventional units, as the case may be, of the land stock, the forestry stock, useful mineral deposits, and other natural resources of the soil and subsoil will be kept by the bodies and units that manage, exploit, and utilize the respective assets.

#### Article 37

The balance sheet for the entire national economy will be presented to the government together with the general annual state budget report.

### CHAPTER VI

#### Violations and Offenses

#### Article 38

The following actions constitute violations of the provisions of the present law, unless carried out in such conditions as to be viewed as offenses by the law:

1. Holding material and cash assets in any form and for any purpose, and the existence of any property rights and obligations, without being recorded in the account books;
2. Receiving and releasing goods from storage without incoming and outgoing bills;
3. Not drawing up verification balance sheets;
4. Not observing the norms issued by the Ministry of Economy and Finance concerning:
  - a) The use and keeping of accounts books;
  - b) Filing and storing bills and bookkeeping documents, and reconstructing lost, stolen, or destroyed documents;
  - c) Taking property inventories;
  - d) Drawing up, verifying, certifying, and filing balance sheets.

#### Article 39

(1) The violations cited in Article 38, subparagraphs 1 and 2, will be punished by fines between 20,000 and 50,000 lei; those under subparagraphs 3 and 4 by fines between 5,000 and 20,000 lei.

(2) The violations will be ascertained and the sanctions will be implemented by persons in charge of financial control and other persons designated for the purpose by the Ministry of Economy and Finance.

(3). The violations cited under Article 38 are subject to the provisions of Law No. 32/1968 regarding the establishment and punishment of violations.

#### Article 40

Deliberately entering inaccurate data and deliberately omitting data from the books for the purpose of distorting revenues, expenditures, financial results, and capital assets shown in the balance sheet, constitute white-collar felonies and are punished in accordance with the law.

### CHAPTER VII

#### Temporary and Final Provisions

#### Article 41

Within 60 days of the publication of this law, the Romanian Government will present a draft bill on the organization of activities regarding audits and certified accountants.

#### Article 42

Within six months of the enactment of the present law, the Ministry of Economy and Finance will draft regulations for the implementation of this law, and will update and reissue the general accounts schedule, samples of ledgers and balance sheets, and shared forms regarding financial and bookkeeping activities, as well as the methodology for drafting and utilizing them. Until they are reissued, the existing accounts schedules, implementation instructions, and bookkeeping norms, updated on the basis of the legal acts that will be adopted at this stage, will continue to be used.

#### Article 43

The Ministries of National Defense and the Interior and other institutions envisaged by the law will recommend their own norms to the Ministry of Economy and Finance regarding the organization and keeping of account books.

#### Article 44

The Ministry of Economy and Finance will monitor the manner in which the provisions of the present law are implemented.

**Article 45**

The present law will come into effect on 1 January 1992.

**Article 46**

The provisions of the present law are also applicable to subunits without legal status, with home offices abroad, that belong to the persons cited in Article 1 headquartered or residing in Romania, as well as to subunits headquartered in Romania belonging to legal or physical persons headquartered or residing abroad.

**Article 47**

The following will be abrogated on the date of enactment of the present law:

- Decree No. 375/1956 regarding the reconstruction of lost, stolen, or destroyed financial acts, documents, and records, published in the OFICIAL BULETIN No. 22 of 4 August 1956;
- Decision No. 1885 of 28 December 1970 regarding the organization and keeping of accounts and the duties and responsibilities of the head of the financial-accounting department, published in the BULETINUL OFICIAL No. 156 of 29 December 1970;

—Decision No 1533/1973 regarding special forms, published in the BULETINUL OFICIAL No. 189 of 2 December 1973;

—Decision No. 1116/1975 on improving balance sheet-based assessments and enhancing the effectiveness and quality of data regarding the economic-financial results of state socialist units, published in BULETINIG OFICIAL No. 127 of 5 December 1975;

—Any other provisions contrary to the provisions of the present law.

This law was passed by the Chamber of Deputies and the Senate in joint session on 20 December 1991, in compliance with the provisions of Article 74, paragraph (2), and Article 76, paragraph (2) of the Romanian Constitution.

President of the Chamber of Deputies  
Dan Marian

President of the Senate  
Academician Alexandru Birladeanu

Bucharest, 24 December 1991

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